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ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No.:

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7 Nov 1960

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E R R A T A

Volume 92

<u>Page</u>	<u>Line</u>	
15764	17	"18" instead of "8"
15766	12	Insert "little" between "is" and "likelihood".

Volume 113

18718	10	Add the word "is" to end of line after "that".
18730	5	Change "to two miles" to read "to the miles"
18733	7	Delete the word "not".
18735	29	Change "class" to read "case"
18742	13	Delete the word "of" at end of line
	16	Change "on each" at end of line to "with each"
18751	10	Change "laws" to read "loss"
18763	13	Change "both" to read "most"
	14	Change "seek" to read "see"
	22	Change "transit" to read "traffic"
18765	26	Insert "cars" between "set-out" and "and"
18766	6	Change "intensity" to read "intensive"
	20	Line to read "comprises relatively short lines but does through"
18768	3	Change "total" to read "possible"
	29	Change "for" to read "to"
18816	13	Change "other" to read "certain"
18821	21	Change "took" to read "takes".



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I N D E X

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By Mr. Mauro	18717
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MOTION

Mr. Fournier	18802
Mr. Sinclair	18803

NO EXHIBITS IN THIS VOLUME



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TORONTO, ONTARIO

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2
3 ROYAL COMMISSION ON TRANSPORTATION
4

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6 Proceedings of hearings held
7 in the Convention Hall, Chateau
8 Laurier, Ottawa, Ontario, on
9 the 7th day of November, 1960.
10 -----

11
12 COMMISSION

13	Mr. M. A. MacPherson	Chairman
14	Mr. H. Anscomb	Member
15	Mr. A. H. Balch	Member
16	Mr. R. Gobeil	Member
17	Mr. H. A. Mann	Member
18	Mr. A. Platt	Member

19
20 COMMISSION COUNSEL

21	Mr. A. G. Cooper, Q.C.	
22	Mr. G. S. Cumming	
23		
24	Mr. H. W. Ellicott	Adviser
25		
26	Mr. F. W. Anderson	Secretary
27	Major N. Lafrance	Assistant Secretary

28
29
30



Ottawa, Ontario,
Monday,
November 7, 1960.

--- On commencing at 10:00 a.m.

THE CHAIRMAN: Order, please.

MR. SINCLAIR: Mr. Chairman and members of the Commission, before my friends commence their cross-examination of Mr. Emerson, I wish to draw to the attention of the Commission an event. Today is an anniversary that is important to the company that I have the honour to represent and to Canada, and it is an historic day, because on November 7, 1885, at Craigellachie, British Columbia, the last spike was driven completing the Canadian Pacific Railway from ocean to ocean.

A few years before, when capital to build the railway was being sought in Great Britain, a writer said:

"Canadian Pacific if it ever finished will run through a country as forbidding as any on earth ... British Columbia is not worth keeping. It should never have been inhabited at all ... In Manitoba, those who are not frozen to death are often maimed for life by frost bites. Ontario is poor and crushed with debt."

Notwithstanding the great difficulties, the railway was built and opened the West to settlement and prosperity.

It is worthy of note, Mr. Chairman and



1
2 Commissioners, that Canadian Pacific had by the time of
3 Canada's Diamond Jubilee in 1927 spent some \$75 million
4 dollars for colonization, land settlement, irrigation
5 and similar works -- an amount exceeding that spent by
6 the federal government in the same period. Many Canadians
7 down through the years were brought to Canada on
8 Canadian Pacific ships. In recent years, Canadian
9 Pacific Airlines as well as the company's steamships
10 have played their part in bringing new Canadians so
11 vital to the growth of Canada.

12 In the more recent past, the railway
13 enterprise of Canadian Pacific alone has paid some
14 hundreds of millions of dollars in corporate income tax.
15 Through income tax payments Canadian Pacific has made a real
16 contribution to every Canadian. This company has never
17 had a deficit which had to be met by the Canadian
18 taxpayer, and it never will if it is allowed to operate
19 in a realistic business way.

20 In the 75 years since completion of the main
21 line, Canadian Pacific has appeared before a number of
22 Royal Commissions. Its efficiency, its policies, its
23 management and transportation problems have been
24 scrutinized by many. For over a year, you have been
25 engaged in that task, Mr. Chairman and members of the
26 Commission. You cannot solve all the transportation
27 problems. You should not try. Many problems can only
28 be solved by management given an opportunity to work
29 them out unhampered by statutory rigidity.

30 In 1885, on completion of the main line of the



1
2 Canadian Pacific Railway, the President of the company
3 said:

4 "In the future Canadian Pacific will neither
5 accept or need anything from the government
6 but fair treatment".

7 Seventy-five years later, the position of
8 Canadian Pacific is the same. Canadian Pacific today
9 and in the future will provide the essential
10 transportation service to Canada. Canadian Pacific as
11 a private enterprise will pay its way and continue to
12 ease the taxation burden of Canadians through payments
13 annually of millions of dollars of income tax. It will
14 do these things, Mr. Chairman and members of the
15 Commission, provided realism in legislation and control
16 are manifest. Thank you.

17 THE CHAIRMAN: I can quite understand why Mr.
18 Sinclair would refer to this matter this morning, and
19 his being here and our knowing him so well for the last
20 year and a half in this Commission is an answer to the
21 article that everything is frozen in Manitoba. I think
22 it is appropriate that a son of a Scot should speak to
23 this matter, when the last spike was driven by a Scot
24 in British Columbia 75 years ago.

25 There is a communication to go on the record.

26 MR. CUMMING: Before we start, there is one
27 matter I wish to raise arising out of the proceedings
28 of this Commission which, I think, Mr. Chairman, has
29 been now satisfactorily resolved, and that is that
30 arising out of an editorial which was published in the



1
2 Daily Gleaner of October 26, 1960. Mr. Sinclair who
3 comes from the Canadian Pacific was good enough to draw
4 this to the attention of the Commission, and with your
5 permission, Mr. Chairman, I would like to read into
6 the record the letter which was sent by you on behalf
7 of the Commission to the editor of the Daily Gleaner
8 on November 2nd, 1960.

9
10 "November 2, 1960.

11 The Editor,
12 The Daily Gleaner,
13 Fredericton,
14 New Brunswick.

15 Dear Sir:

16 Yesterday morning before the Commission
17 a matter was raised and I am enclosing the
18 first three pages of yesterday's transcript.
19 This issue as raised was very startling and
20 very disturbing. I knew that Mr. Mann was
21 so highly respected and regarded by his
22 colleagues that at the moment I did not take
23 time to consult with them but remarked as
24 indicated in the transcript. Later after the
25 recess I consulted with them and then remarked
26 as follows:

27 'Before we go on with Mr. Dingle, Mr.
28 Sinclair has now given me this editorial
29 and I have talked to my colleagues. There
30 is no Commissioner who is more impartial



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on any subject or affair than Mr. Mann,
nor more able, and we will deal with this
by writing to the Gleaner and advising
those present of what we have said.

It was a matter of great satisfaction to
us that without exception his colleagues and
all counsel before the Board are convinced of
the absolute impartiality of Mr. Mann as a
member of the Commission.

It is a very difficult position being on
a Commission and one must shed his previous
views and be concerned with what is submitted
to him and honestly decide what he things best.
It should be no disability to a Commissioner
to have some knowledge of rates and railways
and in this regard we have been very fortunate
with Mr. Mann. To suggest that a judge or a
member of a Commission is prejudiced is to impair
their usefulness, and I am satisfied that you
had no intention whatever to impair the
usefulness of Mr. Mann.

However, later in the day the following
statement was made by the Counsel for
Saskatchewan which is also of interest to you:

'Mr. Chairman, before turning to my
examination of Mr. Dingle I would like
to go back to the editorial which my
learned friend Mr. Sinclair referred to
this morning. In so far as that editorial



1
2 contained a comment having to do with the
3 C.P.R. brief I say nothing. I was,
4 however, shocked -- and I used the word
5 advisedly -- to hear the comments contained
6 in the editorial having to do with Mr.
7 Mann. I know that I speak for my clients
8 the Government of the Province of
9 Saskatchewan and say that there is no
10 question in its mind, or in the mind of
11 anyone else, of the complete impartiality
12 of Mr. Mann and, indeed, every member of
13 the Commission.'

14 I feel that in fairness to the Commission
15 and Mr. Mann your paper should acknowledge its
16 mistake and should frankly maintain the
17 absolute necessity of all Commissioners
18 adopting an impartial manner at all times and
19 being guided by the evidence and submissions.

20 Yours faithfully,

21
22 M. A. MacPherson
23 Chairman.

24 MR. CUMMING: And following that, Mr.
25 Chairman, is a reply written to you by Mr. Michael
26 Wardell, Editor and Publisher of this newspaper, under
27 date of November 3, 1960.

28 THE CHAIRMAN: And received this morning.

29 MR. CUMMING: Yes, received, as I understand,
30 this morning.



1

2

November 3, 1960.

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M..A. MacPherson, Esq.

5

Chairman

6

Royal Commission on Transportation

7

Daly Building

8

P.O. Box 1173

9

Ottawa.

10

Dear Sir,

11

I acknowledge the receipt of your letter of November 3, and have read with interest the enclosure.

12

13

14

I believe that your letter is answered in full by our editorial published yesterday, a copy of which is enclosed, commenting on a Canadian Press news report of your intended action.

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I can repeat that this newspaper has the highest opinion of Mr. Howard Mann, an opinion shared, I think, by all newspapers and by the public generally throughout the Atlantic Provinces.

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We have not suggested nor do we believe that Mr. Mann could be other than impartial in his activities as a member of the Royal Commission on Transportation. No reflection upon his impartiality appears to arise in relation to his often expressed views on the inequities resulting from horizontal freight

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rate increases, inequities which we believe were the basic reason for the establishment of the Royal Commission.

As The Daily Gleaner did not at any time impugn Mr. Mann's impartiality, we cannot find it possible to acknowledge a mistake as suggested in the last paragraph of your letter. At the same time we are glad frankly to maintain the absolute necessity of all commissioners adopting an impartial manner at all time and being guided by the evidence and submissions.

Yours faithfully,

Michael Wardell
Editor and Publisher."

And there was enclosed with that an extract from their newspaper of the date referred to, the relevant part of which appears under a heading "No reflection on Mr. Mann.":

"There was never any reflection on Mr. Mann's impartiality. Mr. Mann is both impartial and experienced, with a rare and expert knowledge both of transportation and the economics of the areas that suffer from its inequities."

I think that is the relevant part of that, Mr. Chairman, and I would like that put on the record.

THE CHAIRMAN: Now, we are glad to have Mr.



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Mann with us today.

MR. MANN: Well, Mr. Chairman and members of the Commission, this matter arose when I was unfortunately unable to be present at the hearings. I, of course, was informed of it and read the transcript. I want to thank Mr. Sinclair for bringing it to the attention of the Commission, and I want to thank Mr. Sinclair, you, Mr. Chairman, and counsel who spoke to it very much for the expression of confidence which they gave me.

I regret exceedingly that Brigadier Wardell of the Fredericton Gleaner should have seen fit to print the editorial that he did. I thank you, sir, for writing as you did to Brigadier Wardell. As far as I am concerned, I can only say this. I have from the beginning, as all of us have on the Commission, and counsel appearing before us, felt that this was not a matter for litigation; that this was a matter for arriving cooperatively at a solution which will conduce to the development of the best transportation environment of this country, to the development of an atmosphere which will bring to the full blossoming the economic and social potential of this country.

I think in such a matter one cannot afford to be partial in any other way than to be partial to the ultimate goal, as I have stated it. And, as I have said before, I regret exceedingly that the Fredericton Gleaner should have -- perhaps inadvertently -- taken the attitude that it did. I am sure that the



1
2 matter will now be rectified.

3 THE CHAIRMAN: We will consider, I think,
4 the incident as closed, and we will cite nobody for
5 contempt.

6 Mr. Mauro?

7
8 R.A. EMERSON, recalled.

9 MR. MAURO: Before starting our verbal
10 tussle, Mr. Emerson, I certainly would be remiss in
11 my duty as representing the government of Manitoba if
12 I did not convey to this great organization our
13 congratulations on your 75th birthday on Saturday. In
14 that paper, which I know you and Mr. Sinclair would not
15 go to bed without reading -- The Winnipeg Free Press --
16 there was a full page story. "They finished the railways
17 75 years ago Monday," and they remarked on the fact --
18 in fact I will quote from the Winnipeg Free Press of that
19 day:

20 "The white-bearded old Victorian,
21 dressed in frock coat and stove-pipe hat,
22 swung his hammer firmly, and the harsh
23 clanging of metal against metal echoed over
24 the snow flecked trees and along the Rocky
25 Mountain slopes.

26 There was a moment's stillness. Then,
27 from the group of directors, officials,
28 engineers and navvies, arose a wild
29 triumphant shout.

30 'All aboard for the Pacific', yelled



1
2 a jubilant conductor -- and his train
3 clattered off swiftly on a journey that was
4 to change the history of Canada".

5 And we of the province of Manitoba, while we
6 have struggled with the C.P.R. historically since about
7 1881, we have also contributed by our sons to the army
8 that were fighting, and it has always been a fair
9 battle, Mr. Emerson, and I wish to convey to you and
10 through you to your company our sincere congratulations
11 and best wishes for the continued prosperity of your
12 company.

13 MR. EMERSON: Thank you, Mr. Mauro.

14 CROSS-EXAMINATION BY MR. MAURO:

15
16 Q. Mr. Emerson, I will refer to the precis,
17 but I will give you the references as I have them in
18 the transcript in case there is some change.

19 At page 28 of the precis, page 18218 of the
20 transcript of evidence, Mr. Emerson, there is comment
21 there concerning the integration of merchandise services
22 operated under one management and "the unrestricted
23 use of piggyback services will, I am confident, assist
24 in bringing about the movement of traffic by the most
25 economical means, resulting in the best allocation of
26 transportation resources."

27 Now, I noticed the use of the term "the
28 unrestricted use of piggyback services". I wonder if
29 you might advise us in what way piggyback services
30 are presently restricted and by whom?



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A. The restrictions on piggyback service to which I refer have to do with regulations applied by provincial highway transport bodies. I gave reference to three instances to Mr. Cooper ten days ago. I can repeat them, if you wish.

Q. Now, is this the restriction of rail movement into a province and then over the road subsequently?

A. In one instance, certainly it is, that it is the restriction on the use of piggyback by highway common carrier, in short.

Q. There is no restriction on the piggyback operation of the C.P.R. by any authority, is there? There is nothing restricting you from making whatever deal you can make or accepting commodities or trailers from whomever you desire to accept them from and transporting them by rail anywhere in Canada?

A. Not from the standpoint of the provincial highway authorities, because, of course, they do not have jurisdiction over our operations, but the control is exercised the other way. It is on the highway carrier. In fact, you can say it in this way, under certain conditions, or you must take a licence before you can use piggyback service.

Q. So what is referred to as the subsequent over the road movement, after the trailer has been carried on C.P.R. flat cars, say, from Winnipeg to Manitoba, and some restriction is placed on the C.P.R. in the movement of that trailer from



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Winnipeg to an over the road destination in Manitoba?

A. No. In that instance, the restriction was not placed on the C.P.R.

Q. Oh, no. Well, I was just trying to generally refer -- I do not know of any instance, Mr. Emerson, at all. I was wondering if that was the situation?

A. Well, the incident which I had in mind in making that reference was one which was applied to a motor common carrier and, in effect, it precluded this motor common carrier who has a licence from the province of Manitoba enabling him to transport goods by highway from points in Manitoba to Montreal and eastern Canada, and the restriction operates in this manner: that, if there is a prior or post piggyback haul in connection with this movement, he is not authorized to make it. In other words, he can pick up goods in certain places in Manitoba and transport them to eastern Canada under his highway licence, but he is not allowed by the Manitoba Board to pick up these goods in Manitoba, transport them to Winnipeg, and put the trailer on a flat car there.

Q. Nor is he permitted, as I understand it, Mr. Emerson, to accept commodities shipped from Montreal or Toronto by piggyback via C.P.R. into Winnipeg, and then utilize his inter-provincial licence to hook up to the trailer in Winnipeg and move them up to Dauphin?

A. Yes, that is the prior piggyback haul;



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although he is authorized to make that movement by highway.

Q. By highway. No restriction is put on that carrier, Smith Transport, to move into Ontario and Quebec and take up his trailer and move it over the highway to any point in the province of Manitoba?



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2

A. No, except, as I say, because he makes the portion of the haul from eastern Canada to Winnipeg -- he is restricted from doing that -- by piggyback.

3

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Q. The highway carrier is restricted, but the railway is in no way restricted by piggyback operation?

6

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A. It seems to me, Mr. Mauro, we are engaged in semantics, because if the application of the regulations of the Manitoba Board in an instance such as

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this is to preclude or prohibit or prevent the highway carrier from using piggyback, the result would be the same.

12

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Q. I am sure we will hear something about that. As I understand it, Smith Transport has made an application to the Manitoba Carrier Board just on that problem that you have described?

14

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A. They made one and it was turned down.

18

Q. Do you know when it was turned down?

19

A. Yes, I think I have that. I think it was August the 2nd.

20

21

Q. August the 2nd?

22

A. Yes, that was the hearing. The information I have is that it was turned down by the Board at its hearing in Winnipeg on August the 2nd.

23

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THE CHAIRMAN: What do you suggest we recommend?

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THE WITNESS: I would suggest, sir, that the recommendations of this Commission should be to remove and avoid any artificial restrictions being placed on the use of piggyback service by provincial

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2 highway regulatory authorities. It is an artificial
3 restriction, I suggest, that denies to a carrier the
4 benefits which may accrue to him from the use of
5 piggyback service. It denies to the public the
6 benefits which accrue to them through the use of the
7 piggyback service by the highway carrier. It, further-
8 more, I suggest, is not in the interests of the province
9 itself in the sense that piggyback is a means, and a
10 considerable means, whereby traffic being removed from
11 the highways and transported economically and efficient-
12 ly by rail will substantially result in reduction of
13 highway traffic congestion by very large and numerous
14 vehicles, and that, surely, is in the interests of
15 the other people who have occasion to use the highways,
16 and of the provincial governments themselves, because
17 they, after all, are the people who are primarily con-
18 cerned with raising the funds to carry out new highway
19 construction and maintenance.

20 This, applied in its broadest sense across
21 Canada, could well be a substantial means of deferring
22 if not entirely avoiding for some considerable time
23 new highway construction.

24 Q. So that this be in the proper context,
25 there is no suggestion before this Commission that if
26 Smith Transport had its proper intra-provincial licence
27 to pick up commodities in the city of Winnipeg and
28 transport them to any and all points in the province
29 of Manitoba, that there would be no problem -- that
30 there is no restriction on the use of piggyback service



1
2 by its decision, because it was a decision involving
3 a single carrier; isn't that true?

4 A. It was a decision involving a single
5 carrier. It was not a blanket restriction, but the
6 point is that by the action of the Board in this instance
7 it denied to the motor carrier the right to do by
8 piggyback something he had the right to do by road.

9 Q. You were not at the hearing, Mr. Emerson,
10 but I am sure you realize - if I suggest to you, you
11 will agree, that the opposition came from other motor
12 carriers in the province of Manitoba who said they
13 were at present servicing satisfactorily the public
14 need of moving commodities that arrived via piggyback
15 over road in Manitoba?

16 A. I am not surprised that such repre-
17 sentations took place, just the same as I would not be
18 surprised if the matter came up before the Manitoba
19 Board in an application for an intra-provincial
20 licence. As has been suggested, they would probably
21 -- "they" being the other truckers -- take the same
22 attitude.

23 Q. One would have to keep in mind the fact
24 that Smith Transport is a wholly-owned subsidiary of
25 C.P.R.?

26 A. No, it is not a wholly-owned subsidiary.

27 Q. Is there some suggestion someone else
28 has any degree of control?

29 A. A considerable interest in it, yes.

30 Q. Has C.P.R. full control over Smith



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Transport?

A. Indirectly, yes -- control.

Q. The policies of Smith could never be contrary to the policies of C.P.R.?

A. In the long run I suppose not.

Q. Page 43 of the brief, Mr. Emerson, and page 18233 of the transcript, reference is made to the Canadian National-Canadian Pacific Act, and you state there it was predicated on the maintenance of competition between the two railways, and I wonder whether you would agree that the legislation was also predicated on the cooperation between the railways as well as the maintenance of competition, and I suggest as an illustration the operation of pool trains is an example of cooperation as opposed to competition; is that a correct appraisal?

A. I would not quite put it that way. I think the Act was predicated on the maintenance of competition to provide for cooperation.

Q. It conceives two situations: the maintenance of a certain minimum competitive situation between the two roads, and also cooperation where cooperation can result in greater economies?

A. It provides for cooperative measures, certainly.

Q. I was wondering whether you would in due course advise us regarding the items mentioned before the Turgeon Commission and appearing in the report of that Commission at pages 226 and 227; in



1
2 fact, it is Appendix A to that particular chapter?

3 A. Yes.

4 Q. There are those items, joint cooperative
5 committee projects in effect as of January 1st, 1949:
6 statement 2, line abandonment projects approved by
7 Board of Transport Commissioners but not effective.
8 Statement 3, line abandonment projects considered by
9 the Board of Transport Commissioners but no order
10 issued. Statement 4, line abandonment projects
11 recommended by joint cooperative committee but
12 disallowed by the Board of Transport Commissioners.
13 Statement 5, projects recommended but not proceeded
14 with. Statement 6, line abandonment projects
15 studied cooperatively but ultimately proceeded with
16 as exclusive projects. Then, perhaps, the items that
17 I would be particularly interested in finding out
18 about: line abandonment projects, recommended but
19 subsequently found to be inadvisable because of
20 increased industrial development in the territory.
21 Statement 8, projects found to be uneconomical.
22 Statement 9, projects on which study was interrupted
23 owing to war activities. Statement 10, other projects
24 which have received study.

25 The ones that I think might be germane to
26 this Commission's inquiry would be statements 8, 9 and
27 10: projects found to be uneconomical; projects on
28 which study was interrupted owing to war activities;
29 other projects which have received study.

30 I wonder if you could subsequently through



1
2 counsel simply file a statement as to what if anything
3 has developed since 1949 under those three headings
4 and, perhaps, if not, and why not?

5 MR. SINCLAIR: Mr. Chairman, the projects
6 found to be uneconomical, Statement 8, referred to by
7 counsel for Manitoba -- what is he suggesting? Have
8 they been reinstated and relooked at.

9 MR. MAURO: Well, take the first one: Scotts
10 Junction-North to the river, province of Quebec,
11 abandon either C.N.R. or Quebec Central Railway line
12 and both use remaining line jointly.

13 Has it received any further consideration
14 since 1949 and, if so, what is your conclusion? If
15 not, that ends that. That was the sort of idea that
16 we had in mind as a reply to the items listed under
17 these items.

18 MR. SINCLAIR: We will take a look at it,
19 Mr. Chairman, to see what we can file. I don't know
20 whether we can cover all of them.

21 MR. MAURO: Q. Well, I use this, Mr.
22 Emerson, because apparently there was a base point --
23 the 1949 study the two railways made, and I wondered
24 if you could bring it up to date.

25 MR. SINCLAIR: Well, for instance, I notice
26 one of these, statement 9: territorial withdrawals
27 of duplicate telegraph offices on a reciprocal basis.
28 As the Commission knows, just very recently at a very
29 prominent city of Canada, namely, Fort William, the
30 Board has heard an application of the railways to do just



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that thing, and there was some opposition, and we are awaiting judgment. There is an example.

MR. MAURO: That is the sort of thing I thought it would be interesting to have before the Commission -- what has transpired since 1949 under these projects instituted under the authority of the C.N.-C.P. Act.

MR. SINCLAIR: Yes; but, Mr. Chairman, it does not necessarily follow they are under the C.N.-C.P. Act. It may be exclusive of that, and yet within the areas mentioned here.

MR. MAURO: Well, you know what I am aiming at and perhaps you could give me the information.

MR. SINCLAIR: We will try.

MR. MAURO: Q. Page 45 of the precis, page 18235 of the transcript: you are referring there to the tremendous growth in the economy which has resulted in the elimination of any rail over-capacity.

Looking at the DBS report covering the Canadian Pacific Railway, 1923 to 1959, I note that the revenue freight ton miles per mile of road in 1928 was 1,164,612, and the revenue freight ton miles per mile of road on the C.P.R. in 1959 was 1,518,000. So that the increase over a period of thirty years, while the mileage of the railway has remained relatively constant, has not had that marked increase that you intimate is absorbing the capacity of the C.P.R. system?

A. Mr. Mauro, do I understand that both of those figures were applicable to C.P.R.?



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Q. Yes. It is from the DBS report on the Canadian Pacific Railway Company.

A. Well, on the face of it, of course, I should point out that this is of itself a 35 per cent increase -- and I compute that only roughly -- approximately 35 per cent increase and this, remember, was from 1928. Now, 1928 was a prosperous year and a year of good business for the railways. On the other hand, the Duff Commission sat at a later time, and the conditions which the Duff Commission had in mind and reported on were depression conditions when, of course, traffic was very much lower than it was in 1928 and was still further below 1959.

Q. What I am suggesting is that, in fact, considering the growth in the economy of Canada since 1928 there has not been that marked increase in the movement of Canadian Pacific rail that can lead one to the conclusion that the capacity has now been achieved -- or, at least, that over-capacity is no longer a problem?

A. Certainly, there isn't the over-capacity that was inherent in the lines of C.P.R. at the time the Duff Commission wrote its report. To give you an indication of that, in the year 1931 Canadian Pacific ton miles of revenue freight were 10,793,000,000; in the year 1956 they were 30,433,000,000; in other words, they almost trebled in that period.

Q. But I think it is preferable to look at the average revenue freight tons per mile of road



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because we are talking about capacity, and the average per mile of road is a figure that I think would perhaps have some meaning. I don't want to suggest that you and I are having any difference of opinion that in the thirties the traffic on the Canadian Pacific dropped appreciably. I think that is obvious. What I am trying to ascertain is whether or not you, as a vice-president of Canadian Pacific Railway, feel that you have achieved a degree of capacity that was unheard of during that period of time -- during the thirties. I am suggesting that in 1928 you had a substantial traffic movement -- in fact, it wasn't achieved again for some appreciable number of years.

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2 A. Well, to deal with your question, first
3 of all, in relation to miles of road in preference to
4 revenue per ton miles itself, I do not have the
5 computation but I suggest relating it to two miles of
6 road would not present a very different figure from the
7 ones I gave you. The reason for that is that the miles
8 of road of Canadian Pacific have remained relatively
9 constant since 1931. In 1931, for instance, they were
10 16,817 and in 1959 the figure was 17,095. Now,
11 obviously, a difference of that small degree would have
12 no significant effect in ton miles per mile of road.

13 Q. I understand, Mr. Emerson, that the
14 American average revenue freight ton miles per mile of
15 road is 2,600,000 as compared to the Canadian Pacific
16 average of 1,500,000?

17 A. That may well be. Certainly I will
18 readily concede that the average density on United
19 States roads is higher than it is in Canada.

20 Q. I am speaking of capacity rather than
21 density, would you also agree that if the American
22 railroads are carrying 2,600,000 and the Canadian
23 Pacific averages 1,500,000 that the Canadian Pacific
24 has in fact a considerable potential capacity still
25 remaining?

26 A. I do not think that follows at all from
27 the relationship you have given me.

28 Q. At page 47 of the precis, page 18237 of
29 the transcript the reference here is in the second
30 paragraph:



1
2 "The Canadian Pacific system does not reflect
3 excess mileage constructed because of any
4 national policy considerations of the past
5 or present."

6 So there is no misunderstanding concerning
7 that statement, I take it you are not suggesting for
8 a moment that the Canadian Pacific was not constructed
9 because of national policy considerations in the past?

10 A. The construction of the main line of
11 Canadian Pacific was undoubtedly the fulfillment of a
12 national policy. I must say we do not regard that as
13 being excess mileage.

14 Q. You do not feel there is any branch line
15 construction of the Canadian Pacific Railways which was
16 as a result of a national policy?

17 A. I know of none -- none that is excess.

18 Q. Well, that is a distinction in the
19 question, if there are any and you are not denying
20 that there may be some (a) the main line and (b) someone
21 may come up with a branch line that was constructed and
22 in your opinion there is no excess mileage constructed
23 based on national policy?

24 A. Yes, that is my position.

25 Q. Page 52 of the precis, page 18242 of
26 the transcript, last complete paragraph on that page
27 reads:

28 "Based upon a branch line of average length
29 and upon average conditions insofar as
30 revenue per ton mile, length of haul, type of



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2 traffic and present costs, it is my view that
3 a branch line with less than 25,000 net ton
4 miles per mile of line would justify a
5 detailed economic study unless there are clear
6 over-riding factors such as potential traffic.
7 As the Commission knows, branch line trains
8 are short, but if you assume trains of, say
9 20 cars, or at 1,000 net tons per train, than
10 that would mean four trains per month."

11 Is your view that branch line of less than
12 25,000 net ton miles per mile of line would justify
13 detailed economic study for you to abandon it?

14 A. They would be suspect.

15 Q. And you translate this into 20 cars or
16 1,000 net tons per train?

17 A. Yes. The reason for that was to try and
18 give a physical concept to what this implies.

19 THE CHAIRMAN: How many branch lines have you
20 in that category and where?

21 MR. MAURO: Q. I wonder if it would be
22 better for me to complete this little part and then
23 the witness could answer that so that I do not lose
24 the trend of this question. Could you tell me what is
25 the system average in tons per train? I refer you to
26 your exhibit 176 which shows, as I understand it, your
27 system average to be 963 tons per train.

28 A. Revenue tons in 1958.

29 Q. Yes, exhibit 176.

30 A. Yes, I see that.



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2 Q. And obviously my question is why does
3 the Canadian Pacific suggest branch lines should have
4 higher ton per train than this system average?

5 A. The illustration given in that paragraph
6 at the foot of page 18242 of the transcript was, of
7 course, not based on traffic coming off the branch line
8 if you could illustrate it that way, bear that in mind.
9 Traffic coming off the branch line which we assume for
10 this illustration would be in the loaded direction.
11 Now, going the other way on to the branch line the
12 movement might very well be empty and, of course, the
13 1,000 net tons per train because it represents the
14 loaded movement and not the empty movement would not be
15 the average for the train in both directions.
16 Furthermore, because the branch line by the very nature
17 of things is a tapering traffic picture as you approach
18 the end because cars are dropped off and it would be
19 lower than this again.

20 Q. What I am suggesting is that you would
21 not for a moment suggest that a branch line operation
22 should have a higher average net tons per train than
23 your system average?

24 A. Oh, I do not think this illustrates and
25 indicates that at all.

26 Q. So, if either one misunderstood it, that
27 was not your intention at all -- if I misunderstood it?

28 A. No.

29 Q. That was not the intention of that
30 paragraph?



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A. No, I am sorry it was not.

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Q. And I go further and suggest to you that it is only grain and principally grain that you can attain such an average tonnage per train as 1,000 tons. I would say it was pretty well limited to grain and coal on the Canadian Pacific Railway, the only ones that could give you that figure.

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A. I would disagree with you.

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Q. Well, what is some of the others on the Canadian Pacific Railway?

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A. Concentrates.

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Q. How much of your movement on the Canadian Pacific Railway are concentrates?

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A. I do not have the figure but it is substantial.

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Q. I suggest to you under the grain movement that the movement on the Canadian Pacific Railway is largely coal that makes up a ratio that comes to 1,000 net tons.

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A. We mentioned coal and I thought we had passed from that and I was trying to think of some others.

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Q. Perhaps we can get them and put them on the record later.

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MR. SINCLAIR: I did not hear that.

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MR. MAURO: Q. Mr. Emerson will get some other movements that average better than 1,000 net tons per train.

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A. I am sorry, I thought we were discussing



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it and I do not know that I have figures that would give me that kind of thing. I am suggesting that ore concentrates would be one.

Q. You were going to give me others other than ore and concentrates that were moved by the Canadian Pacific Railway. Perhaps we could -- I do not want to delay your examination and we could put that in later.

A. Very well, I will see what we have.

Q. At page 53, 18243 of the transcript in the last complete paragraph on that page you are discussing costs and providing transportation services and particularly cost of other transportation media and I am reading now from the last part of that paragraph:

"It is difficult to generalize on truck costs
---"

Now, I wonder if you would tell this Commission what the Canadian Pacific Railway average cost on a 20 mile haul is so we can have comparable figures before this Commission. Those are the truck costs and railway costs.

A. No, I cannot give you the average costs for a 20 mile haul by rail. That is not anywhere segregated in our accounts. I know of no way of determining that except estimated on some arbitrary basis. However, I do not think that is the point we are discussing here. With particular reference to the movement of grain, under the class so far as rail is concerned it is not whether it is a 20 mile haul, it is



1
2 a question of whether it is a 20 mile haul on top of
3 a 400 mile haul which is quite a different thing. The
4 truck haul in this illustration is 20 miles and no
5 further.

6 Q. I think it may be interesting, since you
7 introduced this and gave the trucking costs on a ton
8 mile basis, that we put on the record what we have
9 figured out and we could put on the record the rate for
10 20 miles being class 100 at 62¢ per ton mile.

11 MR. SINCLAIR: Grain, of course, unfortunately
12 does not go at class 100.

13 MR. MAURO: We will move down a bit.

14 MR. SINCLAIR: Give us class 27 and be
15 realistic about it.

16 MR. MAURO: Class 85 at 53¢ per ton mile.
17 Class 30 at 43¢ per ton mile.

18 MR. SINCLAIR: I object to this. The basis
19 upon which this was put forward was 35% of what was
20 column 9 rate and so we took 35% of column 9 or 35% of
21 column 30. I do not think we are in the same ball park.

22 MR. MAURO: In any ball game my friend might
23 speak about, I am cross-examining the Vice-President
24 of the Canadian Pacific Railways and putting on the
25 record certain figures as to ton miles ---.

26 MR. SINCLAIR: I object to that as being
27 irrelevant to the enquiry.

28 THE CHAIRMAN: What is the question?

29 MR. MAURO: I am now placing before the
30 witness, as he has introduced this matter of truck



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costs ---

MR. SINCLAIR: For grain.

MR. MAURO: For grain. If my friend would wait until it is all in and I am saying that the truck costs are 8.1¢ per ton mile does not represent anything. However, comparing similar rates and/or costs of rail haul on a similar distance, and I want to put these rates on and will see what ---

MR. SINCLAIR: I quite agree, grain against grain as it now moves under the statutory rates and as it moves under the proposal of a just and reasonable level of rates as advanced by Canadian Pacific.

MR. MAURO: Nothing to do with grain. On this precis he has said it is a 54,000 pound gross vehicle weight and assuming a 15 ton load and I was coming to that.

MR. SINCLAIR: One quarter cent per bushel.

MR. MAURO: Q. 54,000 pound gross and 8.1¢ per ton mile as its costs.

A. On moving grain.

Q. That is right. What would it matter if he was moving furniture, what would it matter if he was moving furniture and ---

MR. SINCLAIR: He could not get it on.

MR. MAURO: So his costs would be higher for furniture, would it?

A. On account of that factor, if we are moving furniture we might have a load in the other direction, this is based on a one-way movement.



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Q. And any commodities that would load 54,000 pounds, that would be applicable to it?

A. Perhaps, providing it is a one-way haul.

Q. Now, class 55 is 34¢ per ton mile; class 45; 28¢ per ton mile; class 40, 25¢ per ton mile; class 33, 20¢ per ton mile; class 30, 19¢ per ton mile; class 27, 17¢ per ton mile. One-half of class 27 is 8.5¢ per ton mile, the truck costs are 8.1¢ per ton mile.

A. Well, I see the figures, Mr. Mauro, but I cannot see they are relevant. I do not think they have any application in the type of illustration that we are looking at here or in the analysis we are trying to make because here you see the picture is a matter of whether a branch line is economic from the standpoint of providing transportation, in which case the branch line would presumably be continued or the alternative, if you take up the branch line and you haul your grain, in this instance by truck to some point on the main line. Now, as far as the rail haul is concerned it is the difference between a 400 mile haul and a 420 mile haul, for instance.

Q. I agree with you but you are the ones who introduced this into your precis, this hauling of 20 miles?

A. Yes.

Q. And you introduced the truck costs and I thought we should introduce the rates on rail.

A. It is relevant only if in the illustration



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2 of the context we are talking about here we are going
3 to pick up the grain at a point on the branch line and
4 transport it 20 miles, let us say, to the main line,
5 unload it, process it and so forth and make a separate
6 operation and carry it on and at the rates you have
7 mentioned.

8 Q. What would then be the purpose in
9 introducing this example? What was the purpose in
10 introducing this example into the context of your
11 submission here unless you were going to submit
12 comparable costs per ton mile figure for a 20 mile haul
13 on a rail movement?

14 A. Well, I do not think that the cost from
15 the rail for a 20 mile haul on a rail movement by itself
16 is relevant.

17 Q. But it is relevant for truck haul.

18 A. Of course, because the concept you are
19 dealing with here is that the truck haul is only 20
20 miles. You pick up the grain at a farm or central
21 country collection point and transport it 20 miles to
22 the main line where it is loaded to rail.

23 Q. But you are not comparing like with like.

24 A. Oh, no.

25 Q. Are you going to put on the record the
26 cost of moving that grain by rail 20 miles to the main
27 line and loading it and unloading again?

28 A. No, that is not the way to do it. That
29 would be totally unrealistic if it were handled by rail
30 on the branch line continuing, it would be picked up



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at the branch line point and moved on.

Q. What about the situation where there is transit privilege and you unload it and pick it up again after it was processed. Would that not be relevant?

A. It is the closest thing to it, perhaps. Of course, we are under the obligation at the present time of making such movements in transit privileges at statutory rates.

Q. I missed that.

A. We are under the obligation in the case you just mentioned of making such a movement on statutory rates with in transit privileges.

Q. You are suggesting that the in transit privileges are statutory?

A. As applied to the movement of grain, statutory rates, I would say yes.

MR. MAURO: Mr. Chairman, I think this is a good point to take our recess.

THE CHAIRMAN: Yes.

--- Short recess ---

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THE CHAIRMAN: Order, please.

MR. MAURO: Q. On page 54 of the precis, Mr. Emerson, page 18244 of the transcript, you refer to using average total branch line operating cost. Would it be possible that these figures could be filed with the Commission: average branch line cost?

MR. SINCLAIR: No, Mr. Chairman, it would not be possible.

MR. MAURO: Q. Therefore, we are not going to have them, and ourselves and the Commission should disregard them because they are not available?

MR. SINCLAIR: They can be made available to the Commission on a confidential basis, if you so desire.

MR. MAURO: Q. Page 55 of the brief, page 18245 of the transcript. You refer here, Mr. Emerson, to the fact that applications will be filed to abandon all or a portion of five more branch lines in western Canada, totalling about 77 miles. Have any of these applications been filed?

A. I do not think those applications have been filed as yet.

Q. Have discussions taken place between Canadian Pacific Railway and the communities concerned regarding your plans for abandonment?

A. As to that, I unfortunately cannot say at the moment.

Q. Do you approve of the policy set out in the Canadian National submission at page 51? I



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will just read it to you:

"Canadian National is anxious to have the cooperation of provincial and municipal authorities in dealing with these problems. It is quite prepared to examine each one in company with their officials and also, in western Canada, with the large grain handling organizations."

Do you approve of that?

A. No, I would not endorse that so far as Canadian Pacific is concerned, Mr. Mauro. This rather seems to contemplate a major study or an analysis of branch line by branch line. I do not think the circumstances on Canadian Pacific require that. I think we should deal, as we have in the past, on each line on an individual basis as it comes up.

Q. What about the five branch lines 77 miles in western Canada that you refer to in your precis? Do you contemplate discussions with provincial authorities, wheat pools, and the municipal authorities concerning these five branch lines in western Canada?

THE CHAIRMAN: That is establishing climate?

MR. MAURO: Yes.

THE WITNESS: I would think that we would progress them in the normal way before the Board of Transport Commissioners.

MR. MAURO: Q. I take it that is your answer, while it was not my question, Mr. Emerson. I



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2 asked whether you would adopt this policy of the Canadian
3 National in regard to specific, as opposed to the
4 general policy -- you told us you would be opposed to
5 it as a general policy. I was trying to find out
6 whether you would be in favour of it when you do have
7 specific branch lines in mind, as you have in these
8 five?

9 A. Yes.

10 Q. Have you commenced discussions with
11 grain interests, municipalities, and provincial authori-
12 ties concerning these 77 miles?

13 A. No, not in general. There may be
14 specific interests, such as municipalities that we
15 might contact -- things of that sort. But, placing
16 it before the Board of Transport Commissioners gives
17 each party of interest a right to be heard and make
18 their representations.

19 Q. You do not feel that cooperative pro-
20 cedures such as these discussions would result in
21 certain agreements as to programming and timing of
22 line abandonment or alteration?

23 A. I doubt it.

24 Q. Page 57 of your precis, page 18247 of
25 the transcript, the first complete paragraph on the
26 page reads as follows:

27 "This determination should not be postponed
28 merely because some people think their interest
29 should have a priority over other interests.
30 There is no contractual relationship between



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the railway and the people using a
branch line that it should be continued.

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The railway is in no different position

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than a factory, an elevator or a bank

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which moves into a community and upon

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which the community has relied and when

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the facility is withdrawn, loss and

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inconvenience to the public result."

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I wondered if you could advise the Commission of any

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utility that you know of that was permitted to dis-

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continue service in an area simply because business had

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not developed as expected or business had not been

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maintained at a particular level? For example, do

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you know whether the Ontario Hydro has any intention

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of removing its power facilities from Elliot Lake,

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Ontario?

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A. No, I have not heard that they had.

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Of course, I think each one of these has to be viewed

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in the context of the circumstances that pertain to

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it.

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MR. SINCLAIR: Of course, the Prime Minister

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has said that Elliot Lake will blossom and come for-

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ward in other ways.

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MR. MAURO: That is what we feel about our

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area on the branch lines, too.

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Q. Would you expect, Mr. Emerson, that a

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public utilities commission would permit a gas company

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to discontinue a service to a particular area because

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the sales volume did not develop to particular estimates?



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A. If, for example, for some reason fuel oil in this area became so economical or so cheap the people preferred to use it to gas, I expect they would.

Q. Do you know of any instance -- we have had some background in this country now as to the development of public utilities and power and gas -- could you or your research staff point out to us instances where public utilities have been permitted to discontinue service solely on the basis that volume has not come up to expectations or has not been maintained at proper levels?

A. Well, you put "solely" in a strong sense, of course, and I do not think that is ever perhaps the sole test, but it is perhaps the major criterion.

MR. SINCLAIR: Mr. Chairman, the Commission, of course, can take judicial notice of the fact that traction utilities throughout this country have discontinued service and right in the home town of my friend, Winnipeg Electric used to provide services to places like Headingly and Stonewall by rail, and they could not make them pay, and they were discontinued. There are a number of other places, too.

MR. MAURO: The utility there, as I understand it, is functioning. I participated in some hearings a few years ago. The Winnipeg Electric wanted to abandon services because the fare was not at the proper level, or that they should be given



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2 increased fares, and if my learned friend would like to
3 submit some of the evidence in those cases, that is
4 fine. But my question to the witness is, do you know
5 of any utilities that have been permitted to abandon
6 as you say here simply on the basis that there is no
7 contractual relationship, and you are in no different
8 position than a factory or an elevator or a bank. I
9 am suggesting to you that the transportation industry
10 is considerably different than a factory or a bank,
11 and that is why I have restricted my suggestion to
12 a utility..

13 Do you still maintain that the operation of
14 a railroad, a transportation operation, is no different
15 than a factory or a bank?

16 A. No -- of course, it is not identical,
17 necessarily so. But I see no reason why the same
18 principle should not largely be applied.

19 Q. Well, there is a fair distinction in the
20 historical development and the role in the community
21 of the Canadian Pacific Railway and a bank, I suggest
22 to you. For example, is there any limitation on the
23 number of banks that can set up in a particular
24 community?

25 A. I am not aware of any, no. But, you
26 see, in the transportation context, you have got this
27 other situation, Mr. Mauro, which has become, of course,
28 very prevalent in recent years, that is the construction
29 of roads, highways by provincial and municipal authori-
30 ties which have gone to supplant rail transportation



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in many instances.

Q. And I would refer you to the DBS statement concerning Canadian Pacific Railway, 1923 to 1959, and I am reading from page 7 under the heading "Cash subsidy for branch lines," a total of \$3,274,569, and land grants for branch lines, 1,609,000 acres of land.

Do you know of any banks that have received cash subsidies and land grants in order to set up in a community?

A. No, I know of no bank that has that, no.

COMMISSIONER GOBEIL: Mr. Mauro, may I ask a question?

If there was a specific branch line; if there was an alternative mode of transport which is cheaper, more economic, would you say, then, that the railways are different from a bank or an elevator?

MR. MAURO: Yes, but in saying that I am not denying not only the right but the duty of, for example, the C.P.R. applying as they do for the abandonment, Commissioner Gobeil. I am not suggesting that this would be a thing held in perpetuity without consideration. Mr. Emerson and I have a disagreement in the approach that there is no difference between a rail operation and a bank in a particular community. I say that there are intrinsic differences, of a social nature, upon which a community relies, differences in historical development as to subsidies in both land and cash, and these are matters which must



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be contemplated by the Board of Transport Commissioners
in the abandonment application that is different than
a bank.

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COMMISSIONER GOBEIL: Yes, thank you.

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MR. MAURO: Q. Your company has not con-
sidered this, Mr. Emerson, but I was wondering whether
the C.P.R. would be willing to return the cash and
land given to it in consideration of an amendment to
Section 168 of the Railway Act concerning branch
line abandonment?

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MR. SINCLAIR: Well, Mr. Chairman, I, of
course, object to this question and say to my friend
that, as Mr. Emerson has said to Mr. Cooper, and as
he said in his ---

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THE CHAIRMAN: I think he should have time
to consider the answer, anyway.

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MR. SINCLAIR: I do not think he needs any
time, sir. I think the question is improper because
if there was any requirement on the company to con-
tinue operation of the branch or any particular ser-
vice, it would be set out in contract and there are
instances of that on the Canadian Pacific. Where
there is not, then, of course, the contract, not
requiring it, the question, I suggest, is improper.
But, if the Commission wants an answer to it, of
course, I will abide by the ruling.

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MR. MAURO: Q. I take it, Mr. Emerson, the
answer you would like to give is that you have not
considered giving back either the land or money in

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consideration of an amendment to Section 168?

A. No, I do not think that would be a proper step, Mr. Mauro. It seems to me in those instances in which the construction of branch lines was assisted by grants of money or land, the company in consideration of those grants has gone in and built the line, made its best endeavours to service the community, and to have it profitable. Of course, where owing to altering circumstances or for other reasons the hope and expectations of the years gone by have not materialized, I do not think there is any implicit undertaking on the part of the company either to continue the operation of the branch line indefinitely irrespective of consideration for the losses which are involved or to return the money or grants of land.

Q. Yes. And that is an honest, straightforward answer, Mr. Emerson, that the C.P.R. does not want any change in the deal made; the deal as it was made at the time this branch line was constructed, and I would not have raised this point had the C.P.R. not come forward and asked for an amendment to the branch line abandonment rule. And, since we are now changing rules, I think it is germane to this discussion to see if you would change that rule concerning the money and land grant received by the C.P.R. I take it the C.P.R. did not consider that factor at all?

A. No, nor would we want to.



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2 Q. You also state there that the proposal
3 that Manitoba has made concerning this branch line,
4 that the payments would be made by the national
5 treasury in respect of branch lines that would other-
6 wise be abandoned, and so that there be no misunder-
7 standing, Mr. Emerson, I suggest to you that the
8 Manitoba proposal is the complete opposite -- that,
9 under the proposal Manitoba has put forward, payments
10 from the national treasury would be made in respect
11 to lines that otherwise would not be abandoned; that
12 the present procedure as to abandoning of lines would
13 be maintained. So that we are all in the same
14 context, the Manitoba proposal was if the C.P.R.
15 applied for the abandonment of the line between
16 Reston and Wolseley subdivision, and the Board held
17 that it was not in the public interest under the
18 present procedure, you would be permitted to abandon;
19 but if under the present situation the Board of
20 Transport Commissioners said the public convenience
21 and necessity overrode the financial loss to the
22 C.P.R., you would be compelled to maintain it. Am
23 I right so far?

24 A. So far.

25 Q. Under the Manitoba proposal, it would
26 only operate in those cases where the Board says,
27 "Yes, you are losing money, C.P.R., but public con-
28 venience and necessity requires you to maintain those
29 lines", and then the Manitoba proposal would become
30 operative and say, I suggest to you, that rather than



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maintaining lines that would otherwise be abandoned,
our proposal would maintain lines that would not
otherwise be abandoned?

A. Well, of course, once you put that sort
of a condition in, I would expect that in any dealings
before the Board in regard to abandonment of branch
lines there would immediately be raised the proposal
that this line should not be abandoned because, regardless
of the laws involved, it will be paid from the national
treasury and therefore should be continued.



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Q. You have more confidence in the Board than that? They would not be governed by straight biased statements. You have confidence that the Board would look at the true facts of the case and decide whether or not public convenience and necessity overrode?

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A. I think this proposal would undoubtedly tilt the bias.

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Q. Then, at page 58 you refer to the fact that our proposal would not benefit the specific shippers on the branch line in question. Again, I suggest that under the present procedure any burden of deficit in branch line operation is not carried by the shippers on the branch line but rather by the general freight shipper, particularly the shipper of class and non-competitive commodities. The Manitoba proposal is, therefore, based on this realization and on the basis that any consideration should reflect that situation.

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A. No, I do not think I can agree with you on that. The burden of a branch line, if it be an unremunerative line, is not necessarily on other shippers or shippers of other commodities. It may well be borne by the railway.

Q. Yes.

A. And under certain conditions. As to the fact that there is implicit in the Manitoba proposal cross-subsidization between branch lines and main lines -- that is fact of life. It cannot be otherwise in the nature of things.



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2 The alternative to that, would, of course,
3 be a scale of rates that were higher on branch lines
4 than on main lines, which has generally been regarded
5 as repugnant, and the trend in recent years has been
6 quite in the opposite direction. But, if you want to
7 avoid cross-subsidization, that is the sort of system
8 you would have to have, and I do not think it would meet
9 the situation at all. There seems to be a concept that
10 branch lines can be divorced and separated from main
11 lines and that you put one in one category and one in
12 another category. I do not think that is a realistic
13 way to look at the situation, if I may say so. The fact
14 is that branch lines and main lines are all part of
15 the railway system. The difference -- and it is only
16 a difference in degree -- is that the main lines are
17 the through traffic handling arteries while the branch
18 lines are the traffic originating or, in some cases,
19 terminating limbs, if you like.

20 Main lines, of course, generally have to one
21 degree or another traffic originating potential on
22 them. Some branch lines in addition to carrying the
23 traffic which originates or terminates, carry some
24 through traffic. So, there is no clear and sharp
25 distinction.

26 Q. Well, I certainly am pleased to hear
27 this expansion of what you have said here, because I
28 think it will be most helpful to counsel and the
29 Commission when we are considering the grain costing,
30 because we have been misled in some of the things



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2 submitted by the C.P.R. in the costing of grain, that
3 branch lines could be easily segregated and drawn to the
4 extent of being solely related. We would be very pleased
5 to accept your position stated here this morning that
6 branch lines are all part of the same system and it is
7 almost impossible to segregate them and decide what costs
8 apply to what movement and whether or not the branch line
9 was resulting in a deficit or not ---

10 MR. SINCLAIR: The witness never said anything
11 like that.

12 THE WITNESS: I did not say anything like that.

13 MR. SINCLAIR: But, the record will stand.

14 MR. MAURO: Yes, the record will stand.

15 Q. Page 69 of the precis, page 18259 of the
16 transcript, the last complete paragraph reads:

17 "I doubt whether it is fully realized the
18 extent to which Canadian Pacific is now a
19 freight road. I indicated earlier that less
20 than 10% of the transportation work done by
21 Canadian Pacific is referable to the movement
22 of passengers."

23 Could you advise me as to how this figure of
24 10% was arrived at?

25 A. Yes. In the year 1959, total gross ton
26 miles generated by Canadian Pacific amounted to 67
27 billion 539 million. Now, of that amount, in freight
28 service there were 58 billion 586 million from which should be
29 subtracted for passenger carrying cars in freight service
30 103 million; and, adding to that gross ton miles referable



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to baggage, mail and express in passenger service a total of 2 billion 699 million brings a total figure for freight service of 61 billion 182 million -- that is, freight, including baggage, mail and express. 61 billion 182 million is 90.6% of the first figure I gave you, that is, 67 billion, 539 million.

Q. What was the ratio passenger train miles to freight train miles?

A. Relatively different.

Q. Well, I will give them to you, Mr.

Emerson: 27 million approximately, freight service train miles; 14,649,000, passenger train miles -- just about 50%. It is page 15 of the D.B.S. report on the C.P.R. -- and that was 1959. It is in your exhibit also -- exhibit 174: freight train miles, 27,907,570; passenger train miles, 16,235,447. So, the passenger train miles is a little higher than the D.B.S.

A. For the same year?

Q. No, this is 1958.

A. In other words, you are saying that passenger train miles are roughly 50% of the freight train miles?

Q. Yes.

A. That is true, but I do not think that alters my view expressed in the memorandum.

Q. Could you tell us what the passenger deficit was in 1959?

A. No, I could not, Mr. Mauro. That involves a special study to do with some figures here in this memorandum. It would be less.



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Q. Less than in 1958?

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A. Yes, sir.

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Q. At page 78 of the precis, page 18268 of the transcript, you refer to section 315A, subsection 5(a), on this matter of cost of providing passenger service. It is in regard to the amendment you are seeking.

9

A. Yes.

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Q. You say, "Where the company has given notice of intention to discontinue passenger service on a line of railway under this section and an application has been made for a stay, the Board may grant the stay if it is satisfied (a) that the cost of providing passenger service during the period of one year did not exceed the revenues ... for that period ..."

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A. Yes.

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Q. Could you tell us what costs would be applied -- whether it would be avoidable, variable or fully distributed?

22

A. No, it is not spelled out in this section. That would be left, I believe, to the discretion of the Board according to the circumstances. They would look at it in terms, I think, of variable costs plus.

27

Q. And you have confidence in the Board applying the proper cost determinant in this matter?

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A. In a case of this kind, I think, yes.

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Q. You state that Canada in its rail



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2 transportation industry cannot afford the luxury of
3 providing passenger services which are costly and
4 unnecessary, and there is, I take it, no disagreement
5 between the province of Manitoba and the C.P.R. that
6 unnecessary passenger services should not be perpetuated.
7 What I am interested in on behalf of the province of
8 Manitoba is, what is the position of the C.P.R. in
9 regard to necessary services?

10 A. Well, if a service is necessary my
11 position would be that it is patronized to the extent
12 that it would meet its costs.

13 Q. You can envision a situation involving
14 -- we will take another railway other than the C.P.R.
15 just for the sake of the problem: You can envision a
16 rail line such as the Hudson Bay rail line requiring
17 passenger services and yet not having the traffic
18 potential to make it profitable even if people were
19 utilizing the line.

20 A. Well, you will not mind, I trust, if I
21 stay with the C.P.R.

22 Q. Oh, no. I am suggesting this, because
23 right off hand I cannot come up with a C.P.R.
24 suggestion, that if for the sake of this discussion
25 the C.P.R. had a situation where a transportation was
26 necessary while still unremunerative, what would be the
27 position of the C.P.R.?

28 A. Well, in order to deal with that I would
29 have to look at the particular situation. I cannot
30 deal with it in a vacuum, I do not believe.



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Q. Well, there is no vacuum in your mind about a situation where unnecessary passenger services should be abandoned. I suggest, and I place before you now, what about the situation where passenger services are deemed to be necessary?

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A. All right: what makes them necessary?

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Q. Maybe an interest of northern development which is rather current now. It could be a situation of national defence. It could be a situation that the roads in the winter time are blocked in or not satisfactory for movement of people by highway. Those are, although perhaps not completely satisfactory, three situations where this matter of necessity of maintaining a rail link for the movement of people is created: what would be the C.P.R.'s position on that?

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A. Well, I can think of no instance on the C.P.R. where that condition applies, and certainly it is not a matter of national interest under those conditions.

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Q. You would not mind, though, for a moment some authority named by parliament determining what was in the national interest rather than the C.P.R.? You do not mind -- certainly your opinion in this matter should not only be sought but respected -- but the C.P.R. does not mind if in determining the national interest they give this responsibility to some agency other than the C.P.R., such as the Board of Transport Commissioners?

A. I suppose the Board has perhaps made



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2 determinations of that kind in some instances, but we
3 certainly do not hold ourselves up as the sole
4 determinants of it, no.

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Q. There is a person not too far from here
6 who decides national interest?

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A. In many respects.

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Q. You are not suggesting there should be
9 any change in that?

10

A. I think not.

11

Q. As to who should determine national
12 interest in transportation in Canada?

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A. We would certainly hope to have our
14 views considered.

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Q. As I say, not only considered but
16 respected, coming from a company with your experience,
17 but you would be happy to leave it with agencies of
18 government who have the responsibility with regard to
19 that?

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A. Well, "agencies of government" is a
21 broad term.

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Q. Well, I will say the Board of Transport
23 Commissioners.

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A. That is an agency of government, I
25 suppose, and then it becomes necessary to give them
26 guidance and direction, otherwise national interest
27 can mean many things to many people.

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Q. Could you tell us, Mr. Emerson, what
29 percentage of passenger miles is represented by
30 commuter services?



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A. Passenger miles?

Q. Yes. You have told us it was 2.7% of total passenger revenue. I wonder if you could tell us what proportion of passenger miles?

A. I am sorry, revenue passenger miles are not compiled for commutation services.

Q. Well, how did you determine that commuter services represented 2.7% of total passenger revenue?

A. Revenue?

Q. Yes.

A. Well, that is another figure, and that is the relationship between the commutation revenue and total passenger revenue.

Q. One final point, Mr. Emerson, at page 74, this matter of charges to passenger account: you told us the value of free transportation that was credited to passenger revenue by C.P.R. in 1958 was \$6,700,000; is that correct?

A. Yes.

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2 Q. Can you tell me what you have debited
3 with this amount, what account you have debited?
4 You credit passenger revenues with \$6,700,000.

5 A. Well, it is not an accounting treatment,
6 it is a statistical analysis and it is not effective
7 in the accounting procedure.

8 Q. Then you feel, at least, the C.P.R.
9 feels it is completely consistent and valid to credit
10 passenger revenue with an amount \$6,700,000 representing
11 free transportation?

12 A. If you want to look realistically at the
13 burden that was developed by the passenger train ser-
14 vice, yes, quite proper.

15 Q. So if you double your free transportation
16 passenger service you would have been credited for
17 \$13,400,000 for free transportation, you would have
18 then credited the passenger revenue with \$13,400,000?

19 A. Well, that is the arithmetic. Cer-
20 tainly we would not arbitrarily go out and increase
21 free transportation for the purpose of making a
22 picture like this look better because it would not be
23 realistic.

24 Q. I think I have come up with a solution
25 to your passenger train problem because as I see your
26 present statistical procedures, the answer to your
27 passenger problem on the Canadian Pacific Railway is
28 to make passenger service completely free which would
29 increase your plant utilization and instead of a
30 passenger deficit you would come up with a large



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2 passenger profit which would contribute untold velvet
3 dollars to the burdened freight shipper?

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A. Well, I reject your solution.

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Q. Well, it is consistent, is it not? We
6 need more free transportation.

7

Thank you very much.

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THE CHAIRMAN: Mr. Hume?

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MR. CUMMING: Mr. Chairman, before Mr. Hume
10 goes on, there was one question you asked arising out
11 of the last paragraph on page 52. Mr. Emerson was
12 asked how many branch lines there are in that class
13 that have less than 25,000 tons per mile of line.
14 Perhaps since it arose out of Mr. Mauro's examination
15 the answer should be given now.

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THE CHAIRMAN: Yes, it was lost in the

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shuffle.

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MR. SINCLAIR: Has the question resolved itself
19 in a point to point branch line or mileage? You asked
20 how many branch lines, I take it?

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THE CHAIRMAN: How many branch lines.

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MR. SINCLAIR: Even whether they are 20 miles
23 long or 40 miles long?

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THE CHAIRMAN: Any size.

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MR. SINCLAIR: How many individual pieces of
26 track?

27

THE CHAIRMAN: Yes.

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MR. SINCLAIR: Could we check it?

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THE WITNESS: I think I have the figure.

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There are a total of 34 such branches totalling 846 miles.



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THE CHAIRMAN: Where are they?

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THE WITNESS: Well, in eastern Canada there are fourteen which includes one duplication and I say "duplication" in the sense there are two sections of the branch -- thirteen would be a better figure. On the prairies there are eighteen and in British Columbia there are two.

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THE CHAIRMAN: Now, what change was there in these as a matter of density from the time of the Duff Commission -- much?

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THE WITNESS: In some instances there doubtless would be, probably in both instances it would be a matter of detailed analysis to seek.

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THE CHAIRMAN: All right, Mr. Hume.

COMMISSIONER MANN: Mr. Emerson, the 25,000 net ton miles per mile of line that would have applied itself to 34 branch lines plus the two in British Columbia. Now, these figures on which that is based, what year were they on, when did you make that study?

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THE WITNESS: That is based on our 1954 transit density analysis which is the latest we have.

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COMMISSIONER MANN: Thank you.

THE WITNESS: I should probably say there is a large number of those branch lines which are either in process before the Board or in the process of being prepared for submission to the Board.

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COMMISSIONER MANN: And for those you have more current figures on those branch lines?

THE WITNESS: I have not them here.



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COMMISSIONER MANN: No, but the company
has.

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THE WITNESS: I do not think they are all
completed.

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COMMISSIONER GOBEIL: These thirty-four
branch lines are all in operation yet?

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THE WITNESS: Yes.

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COMMISSIONER GOBEIL: Since 1954?

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THE WITNESS: Yes, they are in operation.

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CROSS-EXAMINATION BY MR. HUME:

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Q. Mr. Chairman, before I ask Mr. Emerson
about two or three areas of his submission I would like
to reopen a matter which you indicated was closed
because, unfortunately, I was not able to be here last
week. I wanted to say and join with my learned
friends in the remarks they have made with respect
to Mr. Mann and also to say to you, sir, and your
colleagues that in the long fourteen months that we
have been facing each other in this inquiry that what
has been said about Mr. Mann and his impartiality
would apply equally to all Commissioners. It is
very difficult, I know, to turn your back on a lifetime
of experience and interest because we are products of
our environment. I know I speak for the clients I
represent in saying that all of you gentlemen have a
very difficult task before you in being impartial
and it is quite clear from the way in which you are
able to have handled that task so far that you have

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2 so been. I just wanted to indicate my views to you.

3 THE CHAIRMAN: Thank you very much. We
4 are very glad to see such unanimity in reference to
5 Mr. Mann.

6 MR. HUME: Q. Mr. Emerson, just in the moment
7 or two before we adjourn for lunch may I make one
8 general observation with respect to your brief and then
9 there are two areas I just want to ask you questions
10 about. Without referring you to a specific wording of
11 your brief but commencing with respect to your submis-
12 sion on l.c.l freight, which I think is found starting
13 around page 22, you are discussing problems of handling
14 l.c.l. freight and the advances made by your company
15 in connection with this problem leading to the develop-
16 ment of the merchandising service. I got the impres-
17 sion in reading it, Mr. Emerson, that the brief is
18 intended to convey that what the company was attempting
19 to do was provide feeder service to the C.P.R. subject
20 to set-out points on l.c.l. shipments for short hauls.
21 May I just inquire if that was the proper impression
22 that I should receive from reading your brief, that
23 the company decided in the 1930s to provide a feeder
24 service by highway trucks?

25 A. Well, in the 1930s the operation of the
26 merchandise service certainly employed set-out and,
27 therefore, your highway vehicles fanned in and out of
28 central places, transferred their contents to railway cars
29 and the cars were carried back into or away from
30 the point of origin as the case may be. Today we



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2 are not progressing in the same lines. Under present
3 conditions what we are trying to do is to eliminate
4 double handling which is inherently involved in such
5 a service, the transfer from rail car to road vehicle
6 or vice versa because that is a labour intensity opera-
7 tion and for that reason relatively expensive.

8 Q. When you organized the road transporta-
9 tion operation of your company, Canadian Pacific
10 Transport, this was the purpose of the company, to
11 provide the short haul feeder service into railway
12 points. What you are doing now is by the acquisition
13 of these it amounts almost to transcontinental lines.
14 You have extended beyond that and are now virtually
15 competing with yourself in highway traffic from the
16 Atlantic to the Pacific?

17 A. I would not put it quite as strongly as
18 that, no. Canadian Pacific Transport has, of
19 course, grown since its inception and it no longer
20 comprises a relatively short line but does through
21 routes as well.

22 Q. But in effect, Mr. Emerson, the freight
23 solicitor in Toronto or Montreal for Smith Transport
24 solicits freight for Smith Transport going to Winnipeg?

25 A. Quite.

26 Q. He is in competition with the Canadian
27 Pacific rail freight which is also trying to get the
28 same traffic?

29 A. That is right.

30 Q. So, to that extent and extending that



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right across the country you are competing with yourself as between the road operation of your movement and the rail operation?

A. We are in a position to supply either road or rail service as the customer may require. Now, of course, we are moving beyond that particularly in British Columbia where we are integrating these services.

Q. I will come to that later. The broad picture is in effect the Canadian Pacific Railway is today competing, that its rail freight solicitors also compete in certain areas, I suggest to you, with the Canadian National Railways?

A. That might well be.

Q. You have truck routes now, in your wide experience, you have truck routes where you do not have railways, I presume?

A. Yes. I think without consulting the map I concede that is probably so in some instances.

Q. So the effect today is you have extended beyond feeder service and you are now in the transcontinental trucking business, that is the effect of it?

A. Well, we are in a position to have goods transported transcontinentally by truck, yes. After all, the Canadian Pacific is a transportation company and it is our policy and belief that we should be able to use all of the tools of transportation as the circumstances may require. What we are doing here



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2 is integrating the use of these different tools to
3 provide the best total service at the lowest possible
4 cost.

5 Q. Taking my example between Montreal and
6 Winnipeg, is the Smith Transport freight solicitor
7 under any instructions not to cut the rail rate or
8 under any constructions at all with respect to the
9 rail rate?

10 A. No, the Smith Transport solicitor
11 operates on behalf of Smith Transport.

12 Q. And he can quote any rate that his
13 management indicates he is allowed to quote for the
14 haul between Montreal and Winnipeg?

15 MR. SINCLAIR: You are speaking of a place
16 where they have been fixed by the Quebec Highway
17 Transport Board. I hope you are not trying to trap
18 the witness.

19 MR. HUME: Q. No, I was not trying to
20 trap him. Let us take North Bay, Ontario, and
21 London, Ontario, where there is no regulation. Is
22 the freight solicitor for Smith Transport under any
23 restriction with respect to how he quotes on rates
24 in Ontario?

25 A He operates the same as any freight
26 solicitor for any other company.

27 Q. So, he can quote any rate that he wants
28 to?

29 A. Providing it is for the benefit of the
30 company to do it.



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MR. HUME: Mr. Chairman, I see it is now
twelve o'clock.

THE CHAIRMAN: Yes, we will adjourn until
two o'clock this afternoon.

---Luncheon adjournment.



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--- On resuming at 2 p.m.

THE CHAIRMAN: Order, please. Mr. Hume?

MR. HUME: Q. Thank you, Mr. Chairman. Mr. Emerson, just before we adjourned for luncheon we had been discussing the fact that your rail freight solicitor between, say, London and North Bay, competed with the Smith Transport solicitor, and I suppose you will agree that the competition is good for the public?

A. Yes, I think it might be said so. Of course, I should go on to point out that Smith Transport is a large user of our piggyback service and that in that way Canadian Pacific participates in the traffic they generate.

Q. Yes. But generally speaking, leaving aside piggyback movement for a minute, I think your answer is that insofar as the two media are competing and selling their wares, that this competition is good in the public interest; it is good for the public?

A. I say it is not contrary to public interest, no.

Q. Then, Mr. Emerson, that brings me to asking you in this merchandising service which you described, are you not eliminating, so far as your own companies are concerned, are you not eliminating that beneficial competition by replacing the two solicitors with one and the two clerks with one, and so on right down the line. Are you not taking something away from the benefit?



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A. Well, you are eliminating inter-company competition, in a sense -- intra-company, if you want to put it that way. But that does not, by any means, eliminate competition because there are other motor carriers and sometimes other railways involved.

Q. You told Mr. Mauro that there are other people interested in Smith Transport. I do not care who those other people are, but I believe that is a fact?

A. That is a fact.

Q. If you open this merchandising service and you eliminate these two solicitors, and all the goods travelled by rail, say, for a month, are not the people interested in Smith Transport or the public going to suffer to a certain extent?

A. Either the other people interested in Smith Transport or the public?

Q. Yes, or both?

A. Well, I think we have to deal with them separately.

As to the other people that are interested in Smith Transport, I would say no, not necessarily. I do not envisage any such arrangement as you suggested whereby all the goods would travel by rail for a month, because that would not be the way it works. Part of it would move by rail; part by truck, but part of it in truck in piggyback service.

Insofar as the public is concerned, we are not eliminating competition. There are other motor carriers and other railways and the public still has a



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choice.

Q. Would you agree that it might move all by trucks for a month, if you had a rail strike, for example?

A. If you had a rail strike?

Q. Yes.

A. Well, in an extreme situation of that kind, that is possible. It does not necessarily follow, but it is possible. Those are exceptional circumstances, of course, and we do not set up an organization predicated on exceptional circumstances.

Q. If I understand the thinking behind this merchandise plan you have instituted in British Columbia, it is that you achieve savings and presumably these savings, part of them, are passed on to the public and part utilized by the Canadian Pacific Railway?

A. It puts the whole operation on a more efficient and sound economic basis.

Q. And I suppose it might be a logical, then, extension of the whole theory that if you just had one transportation system in Canada you might achieve the ultimate in economic ---?

A. No, I do not think that would follow at all.

Q. When you go into Malton airport you see Canadian Pacific Airlines and Trans Canada Airlines, both have ticket takers, and so on. Would it not be more economical if you just had Trans Canada Airlines operating out of Malton airport?



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A. I do not think that necessarily follows,
3 by any means.

4

Q. It is not the same as your merchandise
5 plan?

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A. Not in that sense, no.

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Q. Well, on piggyback, you, at page 18217 of
8 the transcript -- I'm sorry. If I may ask you to turn
9 to page 25 of your brief, at page 18215 of the transcript,
10 you are discussing your merchandise terminal in
11 Vancouver, and you state:

12

"At this terminal one dispatching staff receives
13 all solicitation, one fleet of trucks makes all
14 pick-ups and deliveries ...,"

15

What kind of a bill of lading do you use out
16 of Vancouver on a purely intra-provincial movement?

17

A. Well, it depends on how the shipment is
18 consigned by the shipper. The shipper makes the choice
19 as to the tariff on which he wants the goods to move;
20 whether it is express or l.c.l. freight, or l.t.l.
21 truck freight.

22

Q. Well, I think Mr. Carter was asking you
23 some questions about this that I read in the transcript,
24 and he gave the hypothetical situation of a shipper who
25 just turns the goods over to the C.P.R. and does not
26 care how it goes, as long it gets there. And your
27 people make the decisions as to whether it goes by rail
28 or truck.

29

I noticed in the new publication of the D.B.S.
30 dealing with regulations that in British Columbia they



1

2 do have a form of bill of lading for highway movements,
3 as they do in most other provinces. I just wondered
4 how you handle that in British Columbia?

5 A. In each instance, I understand the
6 shipper is asked to designate by which mode of
7 transportation he wants a shipment billed.

8 Q. So, in your merchandising terminals, it
9 is the shipper who decides whether it goes by rail or
10 by highway, then?

11 A. Not quite. The shipper decides on which
12 bill of lading it moves.

13 Q. I'm sorry?

14 A. The shipper decides on which bill of
15 lading it moves.

16 Q. Well, I do not follow your answer.
17 Suppose the shipper decides he wanted to go by highway,
18 and you hand him a highway bill of lading. Does it
19 ever go by rail under those circumstances?

20 A. It might under those circumstances.

21 Q. And if the shipper decided he wanted it
22 to go by rail, and you hand him a rail bill of lading,
23 could it move by highway under those circumstances?

24 A. It might.

25 Q. How do you reconcile that with the
26 regulations in British Columbia?

27 A. Well, in that event the haul that is
28 performed by highway is a contract service which the
29 highway carrier performs for the railway.

30 Q. This is your own --?



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A. Internal arrangement.

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Q. Your own internal arrangement?

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A. Yes, sir.

5

Q. And if you open such a merchandising

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terminal in, say, Ontario, it would be handled the same

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way?

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A. Well, except, of course, Ontario has a

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different situation in that they do not have the same

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regulation on rates as they do in British Columbia.

11

Q. I realize that, but there is a regulation

12

requiring all goods moving over the highway to have a

13

certain form of bill of lading under the Public Commercial

14

Vehicles Act of the province of Ontario?

15

A. Yes, that is so, and that is why we have

16

this contract arrangement within the company and why,

17

as I indicated, I think, to Mr. Carter the other day,

18

we are endeavouring to work out a multiple bill of

19

lading which would simplify this procedure.

20

Q. Mr. Emerson, I do not want to get either

21

you or me out of our depth, but it is my recollection

22

on the railway bill of lading there is a provision in

23

it that a railway company's liability is not to extend

24

beyond --- if you turn these goods over to another

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company for other carriage. Do you recall that? It

26

is in the railway bill of lading. How do you handle

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that, if you turn it over to, say, O.K. Valley Freight

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Lines?

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A. In that event, it is not an interline

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movement; it is a contract movement, I would think,



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arranged on behalf of the railway.

Q. On piggyback, Mr. Emerson, if you would be good enough to turn to page 28 of your brief, at page 18217 in the transcript, you introduce there the mention of piggyback and you describe in the following pages the development of it, and you conclude by saying that:

"Canadian Pacific is strongly opposed to regulatory restriction of any type and sees no public need for this."

You have discussed this partly with Mr. Mauro this morning. I do not intend to thresh old straw, but I just cannot follow if you need regulation to carry pigs why you do not need regulation to carry piggyback trucks. You say you do not want any regulation of any type?

A. I say we are opposed to regulatory restrictions, yes.

Q. Yes?

A. Anything that inhibits artificially the transportation of highway trailers by rail.

Q. Oh, I see. So that your words "regulatory restrictions" would not, for example, preclude the possibility of having regulations that would prevent discrimination between carriers or between private truck owners, and so on?

A. Oh, I think, off hand, I think not. That was not the type of thing I had in mind.

Q. You gave Mr. Mauro an example this morning of what you mean by regulatory restriction.



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Have you got any others?

A. Yes, I have.

Q. I might say, Mr. Emerson, as I understood the illustration you gave Mr. Mauro, it was not a regulatory restriction, but a restriction by the Manitoba Highway Board. I am wondering what you fear by regulatory restrictions?

A. Well, in the transcript the other day, on Friday, a week ago, I gave a couple of other examples to Mr. Cooper. One of them concerned the province of Quebec where, by Order in Council in January last, a scale of fees for the highway carriers was provided for, requiring them to take out licences for each route and by each railway between any two points, either one or both of which is in the province of Quebec. And attached to the taking of those licenses was a schedule of fees, and the fee was \$200 for the initial issuance of the licence, plus, it was indicated, \$100 for its renewal each year thereafter.

Q. Is this out of scale with the same fee that a truck operator between some two points might have to pay?

A. Well, I should say first of all that it is in addition to the fee he has to pay, because this is motor common carrier piggyback service we are talking about, and he has to have his ordinary over-the-road licence in any event. This is an addition, and for that reason an artificial restriction.

Q. I am sorry. I did not understand. Then,



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I am clear, am I, that in effect the regulations to which you refer -- the provincial regulation -- say to the common carrier, if you are going to move any of your goods by railway piggyback you have to pay an additional fee?

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A. That is right.

8

9

Q. Is there any other place in Canada where that is effective?

10

A. Not to my knowledge.

11

12

Q. I think in the transcript you mentioned the province of Ontario. Is there anything similar in regulation that you know of in the province of Ontario?

13

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A. Well, it is not of the same nature, but there was a case there, which has now been corrected, but which involved a motor common carrier who had a licence to operate between certain points and that licence was endorsed for highway movement only.

16

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Q. And you interpret that as preventing him from moving goods by piggyback?

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A. That was the understanding, yes, sir.

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Q. Mr. Emerson, have you heard it expressed by any of these regulatory tribunals or otherwise that one of the things that is feared about piggyback is that if the trucking concern lets its driver force, its labour force trained in driving, go or is drastically reduced, then there is some action by the railway which makes piggyback impossible or uneconomic, that the trucking competition would be seriously affected. Have you heard any such views expressed?



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A. No, I have heard no expression such as that.

4

Q. This is a possibility; is it not?

5

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A. Well, then, you have to consider, of course, that Canadian Pacific is not the only railway providing piggyback service.

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Q. Well, I will come back. There is a threatened railway strike in Canada. Now, if the highway carriers had so depleted their labour force to the men trained to drive these vehicles on the highway, and for this reason all railways are closed down, this would drastically eliminate the trucking industry during that same period; would it not?

15

16

A. Well, it might impair their activities, providing rail piggyback service was suspended, yes.

17

18

Q. Another thing you could do, you could double your rates; could you not?

19

A. Double the rates?

20

Q. Yes?

21

A. Only over a very short period of time.

22

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Q. Yes, but during the time in which you doubled your rates until the highway operators could get men back and train them in the driving of these vehicles, there would be a disruption of competition?

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A. I doubt it, very seriously, because, after all, the motor common carriers have necessarily a considerable body of trained personnel, truck drivers, if you like, employed in terminals making the deliveries to local points in and around the urban



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2 areas to which the piggyback service reaches. Surely
3 it would not take very long to take some of this
4 personnel in an emergency and convert them to highway
5 use.

6 Q. How many drivers on the highway for
7 Smith Transport, on the average, in a day, would you
8 have? How many drivers have you got operating?

9 A. I have not got that figure.

10 Q. It would be in the hundreds?

11 A. Undoubtedly.

12 Q. And they would be rather difficult to
13 replace?

14 A. Well, of course, you are carrying this
15 to a point beyond which I would ever envisage it would
16 go. I cannot foresee the time when railway piggyback
17 service will reach all points and will displace
18 completely over the road movements.

19 Q. Would you not envisage that that is
20 possible between Toronto and Montreal?

21 A. Well, take a specific area, Toronto to
22 Montreal, for traffic that is moving through between
23 Toronto and Montreal, that is possible. But you have
24 to consider, first of all, other movements which may
25 involve hauls to points short of Toronto or Montreal;
26 pick-up and delivery en route, and to services radiating
27 out of Toronto and Montreal where no rail piggyback
28 service is provided.

29 Q. Mr. Emerson, my comments are directed
30 to the last sentence of that paragraph, where you say:



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2 "Suggestions for the restrictive regulation
3 of piggyback can only be an attempt by persons
4 to restrict the efficient movement of
5 commerce to their own advantage."

6 I am suggesting to you that there are other
7 considerations, one or two of which I have discussed
8 with you, that are of some force outside the realm
9 of merely seeking self-advantage. There is something
10 to be said on the other side of the coin?

11 A. No, I do not think I would agree with
12 you, because if the considerations which you have
13 mentioned are valid -- and I do not admit that they
14 are -- but, if they are valid, it is perfectly open
15 to any motor common carrier to say, "Well, I do not
16 want to get caught in this kind of a bind; this is a
17 situation that might arise; I do not know how probable
18 it is, but, in any event, I am not going to take the
19 risk, and I am going to keep my movement on the
20 highway."

21 Q. There are certain places in Canada --
22 I do not know whether it is Canadian Pacific or
23 Canadian National -- but on the railways -- where they
24 will not operate under plan 1. I think in the
25 Maritimes; is that not correct? Is that on the
26 Canadian Pacific?

27 A. No, sir.

28 Q. But, if it is so, this is the kind of
29 thing that is worrisome, is it not, because why could
30 not Canadian Pacific withdraw its plan 1 in any given



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area? What would prevent it, if you had no regulation, such as you suggest there should not be any?

A. Well, the only reason I could foresee us withdrawing from Plan 1 would be in a case where we have been unable to build up a sufficient volume of traffic to make it worth while. We are not going to give up respectable traffic.



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2 Q. Well, now, the last point I want to
3 discuss with you you commence dealing with it at page
4 18243 which is at page 53 of your submission where
5 you are discussing branch lines. You discussed
6 this matter this morning with my learned friend Mr.
7 Mauro and you gave a figure of 8.1 cents per ton mile
8 by trucks of 54,000 pounds gross vehicle weight, and
9 assuming a 15-ton load. You go on in that paragraph
10 to quote Mr. Justice Manning in connection with the
11 Royal Commission on the Great Slave Lake and you quote
12 a figure of 8.35 cents. You again quote Mr. Justice
13 Manning at 4 to 4.5 cents. Mr. Emerson, as I read
14 it, is it implicit in your submission to this
15 Royal Commission that in effect what you are saying
16 is, "Forget all about trucks when you talk about the
17 carriage of wheat because it cannot possibly do it"?
18 Is that implicit in this presentation on the two
19 cases?

20 A. Well, I do not know that it is implicit
21 and to the extent you put it I certainly do not think
22 highway transportation can touch grain, the movement
23 of grain which has occupied so much a part of these
24 proceedings at any costs that have been suggested.

25 Q. Well, now, you are aware, your counsel
26 has made you aware that Mr. Brownlee of the United
27 Grain Growers gave on a movement from Creston,
28 British Columbia, to Vancouver, 2 cents per ton mile.

29 MR. SINCLAIR: And I think my friend at
30 my request also developed what kind of movement that



1
2 was. It is a peculiar and unusual type of movement
3 involving -- you can correct me if I do not recollect
4 what he told you but I turned it over to Mr. Emerson,
5 the information on that movement.

6 MR. HUME: I have the information.

7 MR. SINCLAIR: He has it.

8 MR. HUME: Let me introduce it. My learned
9 friend Mr. Sinclair is referring to the fact that this
10 is a high class backhaul movement?

11 MR. SINCLAIR: Truck operator class.

12 MR. HUME: Q. The backhaul movement is pre-
13 sumably a movement that is on the way back. That seems
14 to imply that it is probably less than the fronthaul
15 movement. My answer to that is be it fronthaul or
16 backhaul, it is part of the overall operation and the
17 public is given the benefit of the economics of what-
18 ever the trucker is able to do. I do not care whether
19 it is backhaul or fronthaul, it is moving at 2 cents
20 a ton mile.

21 MR. SINCLAIR: That only means the fronthaul
22 movement has to carry more than the backhaul movement
23 which is another way of putting it, a depressed rate
24 situation.

25 MR. HUME: I suggest it does not necessarily
26 mean that at all.

27 MR. SINCLAIR: It is a matter of argument.
28 Put the question to the witness.

29 MR. HUME: Mr. Brownlee brought this up and
30 when he did I tried to get some further information



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2 because Mr. Sinclair asked me to get it and I was
3 interested myself. The operator in this area is
4 Millar and Brown Limited and they wrote me a letter
5 a copy of which you no doubt have and he says:

6 "For the records I would like to submit
7 that from the Creston, B.C. area during
8 the year 1959 approximately 4,000 tons
9 of grain was moved to the coast. Out
10 of this total truck hauled approximately
11 2700 tons² and the C.P.R. about 1300
12 tons.

13 "The rail mileage involved is 575
14 miles, by highway at the present mileage
15 is a little greater. This traffic
16 represented 98.26 cents per ton mile
17 or 39.652 cents per equipment mile
18 and in the direction it is moving it
19 is remunerative traffic."

20 Then we sought, because Mr. Sinclair was interested
21 in the matter, to find out what he meant by the direc-
22 tion in which it was moving and I sent him a telegram
23 and got an answer back. He said in the telegram
24 something about 95 per cent delivered to Cloverdale,
25 B.C. and five per cent Vancouver backhaul movement.
26 What it means is that he has got a load one way and
27 he is able remuneratively to bring it back whether
28 it is back or fronthaul. I wanted to bring it up
29 at this time because your brief seems to indicate it
30 has to be at least 4 cents to 4½ cents and I suggest



1
2 to you that it is not impossible that grain may move
3 in the future at 2 cents or less than 2 cents a ton
4 mile remuneratively, however that remuneration may
5 be figured.

6 A. Well, there are perhaps instances such
7 as this in which grain might move at 2 cents per ton
8 mile but I suggest they are the exception rather than
9 the rule, that there could be no major movement of
10 grain in western Canada at such rates.

11 Q. And, Mr. Emerson, so there may be no
12 misunderstanding I am not suggesting it is moving at
13 one-half a cent per ton mile or one cent but I think
14 you will agree with me to suggest that it cannot move
15 under 4 cents or $4\frac{1}{2}$ cents that the facts indicate
16 that it is moving otherwise. Mr. Brownlee says in
17 the future he will be very much surprised if a great
18 deal is not moved.

19 A. It is moving in small amounts between
20 particular points and at Creston there are peculiar
21 circumstances which have developed over the years
22 partly rising out of the regulations of the Canadian
23 Wheat Board which have had a considerable part to
24 play in the development of this movement. But, to
25 proceed from there to the suggestion that two cents
26 a ton mile or anything approaching it could apply to
27 the general haulage of grain, I reject it.

28 THE CHAIRMAN: Is it your submission that
29 grain is captive to rail?

30 THE WITNESS: Well, I would not say captive,



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no.

THE CHAIRMAN: Can you say both?

MR. HUME: In the United States ---

MR. SINCLAIR: Let him answer the question.

MR. HUME: Q. I am sorry.

A. I would say it is unlikely in general in the foreseeable future that any other transportation agency on the prairies could meet rail costs for the movement of grain in any large way.

Q. What do you mean by the foreseeable future? How many years are you talking about?

A. I will take fifteen years -- twenty years.

Q. In the United States where the rate on grain has been allowed to find its normal economic development there is a good deal of grain moved by truck long distances both to the lakehead, at Seattle and so on and to the Pacific coast. Is this not a fact?

A. Yes. There is a substantially greater movement of grain in the western United States, of course, than there is in Canada where, first of all, rail rates are much higher -- much, much higher -- and secondly, there is a much greater domestic consumption of grain and much of it moves to local points for that reason and also to points on the Mississippi water system for furtherance by barge.

Q. And, in other words, what I think we are agreed on is this: it is the rate that determines whether



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2 or not it is captive or whether it is not. In the
3 United States it is not captive because the rate is
4 such that it can economically be moved by truck and
5 in Canada, for reasons which I am not going to go
6 into now, it does not.

7 A. Well, I do not know that I like the
8 word "captive" too much.

9 Q. Well, use any word you like. It is
10 going by rail in Canada by reason of things we have
11 heard about over the last months?

12 A. Yes.

13 Q. And if adjustments are made so that
14 the rate finds what may be called a just and reasonable
15 level, would you not agree with Mr. Brownlee who
16 indicated he would be very much surprised if it did
17 not move by other transportation media and this includes
18 pipe line and so on?

19 MR. SINCLAIR: I do not think Mr. Brownlee
20 said that at all, that is not my recollection of Mr.
21 Brownlee's evidence and I will so argue at another
22 time.

23 MR. HUME: For the sake of the discussion
24 between you and me.

25 MR. SINCLAIR: Deal with Mr. Hume's question
26 and never mind Mr. Brownlee.

27 MR. HUME: You were quoting me last
28 Tuesday?

29 MR. SINCLAIR: It also made reference only
30 to one witness instead of more than one, if that is



1
2 what you mean, you made reference today to one
3 witness.

4 MR. HUME: I have the transcript. That is
5 the inaccuracy to which I refer.

6 MR. SINCLAIR: I will find another.

7 MR. HUME: Whatever Mr. Brownlee has to say,
8 would you not agree that it is not just so easy as you
9 have indicated in your brief to forget about that
10 media of transportation, trucks, in the haulage of
11 grain. Will you not agree that the possibility is
12 quite distinct that other media of transportation
13 will be competing with railways for haulage of grain
14 in western Canada?

15 A. Not under any rate that has been sug-
16 gested in these proceedings.

17 Q. But do not confine it to any rate
18 suggested in these proceedings, it is on the hook and
19 allowed to find its economic level?

20 A. No, I do not think so.

21 Q. Mr. Emerson, is it not the same kind of
22 approach that twenty or thirty years ago the people in
23 the railway industry were saying about the movement of
24 freight by truck, I think it was the Turgeon Commission
25 when evidence was that the economic length of haul
26 was something like 70 to 120 miles.

27 MR. SINCLAIR: Or 400.

28 THE WITNESS: Of course, things have changed
29 since the Turgeon Commission.

30 MR. HUME: Q. That is my point. Will you



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2 not agree things may change in the future as there
3 will be other media of transportation hauling grain?

4

A. On the prairies I cannot foresee it.

5

MR. HUME: Thank you very much.

6

THE CHAIRMAN: Mr. Fournier?

7

8

CROSS-EXAMINATION BY MR. FOURNIER:

9

Q. Mr. Emerson, you are aware that on the
10 15th of October, 1960, I wrote a letter to Mr. Sinclair
11 your counsel to ask for some information as to the
12 ownership of trucking businesses by your company.
13 Mr. Sinclair was kind enough on the 27th of October
14 to reply and give part of the information?

15

A. Yes.

16

Q. In order to shorten your testimony,
17 would you agree to file the letter, the reply of your
18 counsel as part of your testimony?

19

MR. SINCLAIR: We will file it as an exhibit.

20

MR. FOURNIER: File it as part of the record,
21 as part of the testimony.

22

MR. SINCLAIR: These are facts as were given
23 by me and I will certainly file it as an exhibit and
24 that is part of the record as an exhibit, an official
25 communication from the company in accordance with my
26 instructions.

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MR. FOURNIER: I would like to have this
28 letter entered into the actual record, into the actual
29 transcript.

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MR. SINCLAIR: I will file it as an exhibit.



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If my friend wants to read the letter let him read it in.

THE CHAIRMAN: You do not object to it
being in?

MR. SINCLAIR: I object to putting the five
or six pages on when it is before the Commission as an
exhibit. However, if my friend is not satisfied with
that then certainly let him read it.

THE CHAIRMAN: Very well, you may do it.

MR. FOURNIER (reads):

" At Ottawa,
October 27, 1960.

File No. S.F. 370

Geo. Rene Foyrnier, Esq., Q.C.,
Price Building,
65 Ste Anne St.,
Quebec, P.Q.

Dear Sir:

"I acknowledge your letter of October 15,
asking for a great variety of information with
respect to the motor common carrier subsidiaries
of Canadian Pacific.

"I have endeavoured to set out in this
letter the information you requested in so far as
it is available or is information which we
are prepared to disclose. You will realize that
for policy reasons, some information which you
request, such as gross revenues and profits,
is not information which we wish to make public.
Other information, such as tonnage of each of the
lines, is not available.

"First, I should explain that:



1
2 "Canadian Pacific Railway Company wholly
3 owns Canadian Pacific Express Company, Canadian
4 Pacific Transport Company Limited and Island
5 Freight Service Limited. It controls Smithsons
6 Holdings Limited (not a motor carrier).

7 "Canadian Pacific Transport Company Limited
8 wholly owns O.K. Valley Freight Lines, Limited
9 and Dench of Canada Limited.

10 "Smithsons Holdings Limited holds all the
11 common stock of Smith Transport, Limited and
12 wholly owns Allen's Transport Limited.

13 "Smithsons Holdings Limited controls
14 Norman's Transfer Limited, Montreal-Cornwall
15 Express Lines, Limited, Lawson Transport
16 Limited and De Luxe Transportation Limited.

17 "Smith Transport Limited wholly owns Smith
18 Transport (Maritime) Ltd.

19 "Information with respect to these various
20 companies is as follows:

21 "Island Freight Service Limited was purchased
22 by Canadian Pacific in 1946. Its head office is
23 at Vancouver, B.C. This company holds licences
24 from the British Columbia Motor Carrier Board
25 permitting the transportation of general merchan-
26 dise between Vancouver and Nanaimo and on Vancouver
27 Island between Victoria and Campbell River, with
28 routes to Port Alberni between Cowichan and
29 Youbou. The company files its rates with the
30 British Columbia Motor Carrier Board and may not



1
2 change them without the Board's approval. At
3 the end of 1959 this company owned 31 trucks,
4 46 tractors and 83 trailers.

5 "O.K. Valley Freight Lines, Limited was
6 purchased by Canadian Pacific Transport Company
7 Limited in 1947. Its head office is at
8 Vancouver, B. C. This company holds licences
9 from the British Columbia Motor Carrier Board per-
10 mitting the transportation of general merchandise
11 between Vancouver and a number of places in the
12 interior of southern British Columbia including
13 Penticton, Kelowna, Vernon, Grand Forks, Trail,
14 Nelson, Cranbrook and Kimberley. These licences
15 also permit the transportation of general
16 merchandise between various intermediate points.
17 It also holds interprovincial licences permitting
18 the transportation of general merchandise from
19 Vancouver to the British Columbia - Alberta
20 boundary near Crowsnest. As in the case of
21 Island Freight, this company files its rates with
22 the British Columbia Motor Carrier Board. At
23 the end of 1959 this company owned 52 trucks,
24 64 tractors and 90 trailers.

25 "Dench of Canada Limited was purchased by
26 Canadian Pacific Transport Company Limited in
27 1948. Its head office is at Calgary, Alberta.
28 This company holds licences from the Alberta
29 Highway Transport Board permitting the trans-
30 portation of general merchandise in Alberta. It



1
2 serves points in Alberta between Edmonton,
3 Calgary and Fort Macleod and routes east and west
4 to such points as Stettler, Rocky Mountain House,
5 Medicine Hat and Lethbridge. It also holds
6 interprovincial licences permitting the trans-
7 portation of general merchandise to the Alberta-
8 British Columbia boundary and to the Alberta-
9 Saskatchewan boundary. There is no regulation of
10 rates in Alberta, nor of interprovincial rates
11 between Alberta and the neighbouring provinces.
12 At the end of 1959 this company owned 48 trucks,
13 76 tractors and 124 trailers.

14 "Canadian Pacific Transport Company Limited
15 has been wholly owned by Canadian Pacific since
16 its incorporation in 1925. Its head office
17 is at Montreal, P.Q. It holds licences from the
18 Manitoba Motor Carrier Board permitting the
19 transportation of general merchandise between
20 Winnipeg and Brandon and between Brandon, Minnedosa
21 and Russell and interprovincial licences permitting
22 the transportation of general merchandise between
23 Winnipeg and Regina and Saskatoon. It holds
24 licences from the Saskatchewan Highway Transport
25 Board permitting the transportation of general
26 merchandise between Regina, Moose Jaw and Swift
27 Current, Gull Lake, Shaunavon and Eastnd. The
28 rates charged by Canadian Pacific Transport on
29 traffic carried within Manitoba and within
30 Saskatchewan are fixed by the respective



1
2 highway transport boards of those provinces.

3 There is no regulation of the rates on inter-
4 provincial traffic between these provinces.

5 At the end of 1959 Canadian Pacific Transport
6 owned 34 trucks, 27 tractors and 73 trailers.

7 "Control of Smith Transport Limited was
8 acquired through purchase of control of Smithsons
9 Holdings Limited by Canadian Pacific in 1958.

10 The head office of Smith Transport Limited is
11 Toronto, Ontario. This company holds licences
12 from the Ontario Highway Transport Board

13 permitting the transportation of general mer-
14 chandise to many points in Ontario principally

15 in the area between Cornwall, on the east, and
16 Windwor, on the west, including the Toronto-

17 Hamilton area. A route between Toronto,
18 Sudbury and Sault Ste. Marie formerly operated

19 by Allen's Transport Limited was taken over
20 by Smith Transport this month. Allen's

21 Transport Company, with head office at Toronto,
22 was acquired by Smithsons Holdings Limited

23 in 1958. It also holds interprovincial licences
24 permitting the transportation of general

25 merchandise between Ontario points and Winnipeg and
26 between Ontario points and the provinces of

27 Quebec, New Brunswick, Nova Scotia and Prince
28 Edward Island. It holds licences from the

29 Nova Scotia Motor Carrier Board permitting the
30 transportation of general merchandise on some routes



1
2 within Nova Scotia including Halifax - Digby - Yar-
3 mouth and Halifax - Truro. Through Smith
4 Transport (Maritime) Ltd. it transports general
5 merchandise under licence from the New Brunswick
6 Motor Carrier Board on routes within New
7 Brunswick, including routes out of Saint John
8 to Fredericton, Moncton and Chatham. Control
9 of Smith Transport (Maritime) Ltd. was acquired
10 by Smith Transport in 1958. Its head office
11 is at Fredericton. Freight rates in Ontario
12 and New Brunswick are not regulated. The rates
13 charged in Quebec are regulated by the Quebec
14 Transportation Board. In Nova Scotia the
15 Motor Carrier Board requires each carrier to
16 file a schedule of its rates and to abide by
17 them. There is no control of rates on
18 interprovincial traffic carried by this company
19 with the exception of traffic to and from the
20 province of Quebec, which is regulated by the
21 Quebec Transportation Board. At the end of
22 1959 this company owned 453 trucks, 793 tractors
23 and 1885 trailers. These figures include the
24 vehicles owned by Allen's Transport Limited
25 and Smith Transport (Maritime) Limited.

26 "Control of De Luxe Transportation Limited
27 was acquired by Smithsons Holdings Limited
28 in 1958. The head office of this company is
29 North Bay, Ontario. It holds licences from
30 the Ontario Highway Transport Board permitting



1
2 the transportation of general merchandise
3 between Ottawa and Toronto and North Bay and
4 Sudbury. As I have mentioned, rates are not
5 regulated in Ontario. At the end of 1959
6 this company owned 35 trucks, 40 tractors and
7 77 trailers.

8 "Control of Norman's Transfer Limited,
9 Montreal - Cornwall Express Lines Limited and
10 Lawson Transport Limited was acquired by
11 Smithsons Holdings Limited in March 1958. The
12 head office of Norman's Transfer Limited and
13 Montreal-Cornwall Express Lines Limited is
14 Montreal, and that of Lawson Transport Limited
15 is Cornwall, Ontario. These companies hold
16 interprovincial licences permitting the trans-
17 portation of general merchandise between
18 Montreal and Cornwall and licences from the
19 Ontario Highway Transport Board covering some
20 points in the vicinity of Cornwall. The rates
21 of interprovincial traffic carried between
22 Montreal and Cornwall are regulated by the
23 Quebec Transportation Board. At the end of
24 1959 these three companies owned 23 trucks,
25 40 tractors and 77 trailers.

26 "Canadian Pacific Express Company has been
27 wholly owned by Canadian Pacific since the
28 1880's. Its head office is Toronto, Ontario.
29 This company holds licences from the motor
30 carrier boards of Saskatchewan, Manitoba, Ontario,



1
2 New Brunswick and Nova Scotia permitting the
3 transportation of express and general merchandise
4 on a number of routes in each of the provinces
5 named. In some instances, the Express Company
6 operates trucks on routes radiating out from a
7 railhead, for example, Brandon, Manitoba, and
8 carries traffic which has had or will have a
9 rail haul as well as local traffic. In other
10 instances, the Express Company has acquired
11 routes in order to carry traffic on the dis-
12 continuance of passenger train service, for
13 example, between Hayter on the Alberta-
14 Saskatchewan boundary and Harrowley on the
15 Manitoba-Saskatchewan boundary upon the dis-
16 continuance earlier this year of passenger
17 train service on the company's line between
18 Winnipeg, Saskatoon and Edmonton. The rates
19 of the Express Company are regulated by the
20 Board of Transport Commissioners where there is
21 a rail haul in whole or in part.

22 "At the end of 1959 the Express Company
23 operated 24 trucks, 104 tractors and 133
24 trailers in its highway services.

25 "Quebec Central Transportation Limited is
26 owned by Canadian Pacific. This company operates
27 passenger buses on the following routes:

28 "Sherbrooke to Newport

29 "Thetford Mines to Sherbrooke

30 "Vallee Junction to Thetford Mines



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"East Broughton to Thetford Mines

"St. Come to Quebec

"St. Georges de Beauce to Quebec

The bus fares are regulated by the Quebec Transportation Board. The company operates 15 buses.

"Canadian Pacific Transport Company operates 3 buses providing service between Galt and Kitchener and Preston, Ontario, for the convenience of rail passengers. No local passengers are carried.

"The operations of Island Freight Service Limited and O.K. Valley Freight Lines Limited have been integrated with express, l.c.l. freight and the freight operations of the British Columbia Coast Steamship Service in the province of British Columbia. This is explained at page 25 of submission of Canadian Pacific to the Royal Commission entitled 'Economical and Efficient Railway Transportation' dated September 15, 1960.

"In the other provinces, the motor carrier subsidiaries conduct the usual and ordinary business of a motor common carrier.

"I have sent a copy of this letter to the Secretary of the Royal Commission.

"Yours truly,

"Ian D. Sinclair"



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THE CHAIRMAN: This is a letter to you from Mr. Sinclair?

MR. FOURNIER: This is a letter which I received from Mr. Sinclair, and I have read it into the record, not as an exhibit, but as part of the testimony.

Q. Now, Mr. Emerson, in the second paragraph of this letter, you stated, "Other information ..." -- I will say, through Mr. Sinclair the company stated -- "Other information such as tonnage of each of the lines is not available." Is it not true that the number of trucks or trailers does not represent and would not constitute full evidence before the Commission of the extent of the expansion of the operations of those trucking companies?

MR. SINCLAIR: After all, Mr. Chairman, my friend made a demand on the company through a letter addressed to me, and I have answered it as counsel for the company. Surely, he does not expect Mr. Emerson to say that the letter I filed officially on behalf of the company is not the information which the company is prepared to give. If he does, it will be a new day.

THE CHAIRMAN: He is not asking that.

MR. SINCLAIR: He is asking, is this the document -- failing to give a full picture of the operations.

THE CHAIRMAN: Mr. Sinclair's answer is correct?



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THE WITNESS: Oh, yes.

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MR. MAURO: That is not the question.

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MR. SINCLAIR: The question was, does this not give the full picture -- this is the question -- one of the questions he asked for: tonnages. We said they were not available. He can argue if they were available they would give other information. This may or may not be. Obviously, tonnages and trucks are different.

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MR. FOURNIER: Mr. Chairman, I do not understand why this information would not be available.

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MR. SINCLAIR: The fact is it is not.

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MR. FOURNIER: I am still coming back, Mr. Chairman, to the Turgeon report, page 153, which I read the other day where it was said at the conclusion because the Commission was not well informed at the time and did not have all the proper evidence they could not come to a proper conclusion, and again I am reading you, sir, with all respect, the conclusions of the Commission at page 153. This is ten years ago:

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"It would seem that operation of trucks may be an essential and complementary part of railway operation, more especially in view of changing conditions. Under these circumstances it does not appear reasonable that railways should be prohibited from operating trucks or truck lines."

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-- and this is the substantial part which I am coming to -- "There is no evidence to show that



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there is danger at present of the railways stifling competition by ownership of trucks. This would be a matter to be dealt with if and when the occasion arises."

5

What I say, sir, that ten years afterwards it is time to show this evidence.

6

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MR. SINCLAIR: Well, with all due respect to my friend -- and I am glad he read that, because there is nowhere there where it says the Commission did not have all the evidence it needed. It just says there was no evidence.

10

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THE CHAIRMAN: Have you that evidence available?

13

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MR. SINCLAIR: Have we tonnages? The answer is in the letter -- no.

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THE CHAIRMAN: No.

17

MR. FOURNIER: Sir, I would like to make a request. It is my estimation it is of the greatest importance for the Commission to know tonnages and ton miles of these trucks, and I cannot understand, with all due respect to my learned friend, why this is not available.

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MR. SINCLAIR: Because I have said it is not, and if it was available I would not have said it was not.

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THE CHAIRMAN: Are you making a motion?

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MR. FOURNIER: Yes, sir, I would like to make a motion that the C.P.R. be ordered to provide all this information, and I will go further than that on my motion: On the 3rd of November, to be sure that

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1
2 the C.P.R. would not be caught by surprise, I wrote a
3 letter ---

4 THE CHAIRMAN: We have a copy of that.

5 MR. FOURNIER: ... to Mr. Sinclair asking
6 this information and sending him a list of questions
7 which would be asked either of Mr. Emerson or of any
8 other witness of the company able to testify. Sir,
9 with this motion I would like to file this list of
10 questions, a copy of the letter, and I should like that
11 the C.P.R. be ordered to supply all the information
12 and answer these questions.

13 THE CHAIRMAN: We will consider that.

14 MR. SINCLAIR: Of course, Mr. Chairman, it
15 is a most unusual motion, one that I can easily answer
16 that, while we acknowledge the power of this Commission
17 to order, it is impossible for them to order us to
18 produce something that is not available. Even with
19 all the powers given to this Commission, they cannot
20 make something that is not there. If my friend is
21 saying, notwithstanding the fact I said they are not
22 available that they are available, I am very much
23 surprised because I am not in that position -- ever.
24 They are not available.

25 THE CHAIRMAN: Well, Mr. Sinclair we have to
26 hear the motion, anyway.

27 MR. SINCLAIR: Well, I understood you to
28 say you were going to consider it.

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30 --- A short recess ---



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THE CHAIRMAN: Order, please.

Mr. Fournier, in your motion, now, Mr. Sinclair says that there is not this information available. While we have to consider any motions made, there is not much use in considering a motion to which there is no answer.

Now, there is not the information, I understand from Mr. Sinclair.

MR. SINCLAIR: That is what I am instructed.

THE CHAIRMAN: Well, now, Mr. Sinclair ---

MR. SINCLAIR: Yes, sir?

THE CHAIRMAN: -- it is true that you have no record of ~~ton~~ miles or, in connection with trucking ---

MR. SINCLAIR: Mr. Chairman, have we any record of ton miles?

THE CHAIRMAN: Truck miles.

MR. SINCLAIR: Truck miles?

THE CHAIRMAN: I mean, Mr. Fournier is a bit handicapped in the matter of language, and thus we are dealing with semantics a bit.

MR. SINCLAIR: Mr. Chairman, with all due respect, this so-called dealing with semantics -- Mr. Fournier, on behalf of his client made a demand. This came in very late. Notwithstanding that, we gave as complete an answer to help him as we could. This has been put on the record. Further than that, where the information he asked was not available, we said so. And that, as far as I am concerned, is the



1

2 end of it. You cannot make things available that are
3 not available. That is what I object to very much.

4

THE CHAIRMAN: In the event that it does
5 not exist?

6

MR. SINCLAIR: That is right, and this
7 suggestion that the railways maintain piles of statistics
8 that are not needed for managerial purposes to satisfy
9 the curiosity or any other reason of my learned friends
10 is just ridiculous, in my respectful submission. Even
11 the Dominion Bureau of Statistics in reports that are
12 made to them have to be done on broad estimates, and
13 involve themselves into all kinds of difficulties.

14

MR. FOURNIER: Would I understand that it
15 is in estimates that have been made by DBS?

16

MR. SINCLAIR: That is correct.

17

MR. FOURNIER: That is correct, and do I
18 understand also that, let us say, Smith Transport does
19 not keep any record whatsoever of the tonnage of
20 merchandise carried?

21

MR. SINCLAIR: Between points in Canada?

22

Records?

23

MR. FOURNIER: No, as a whole.

24

MR. SINCLAIR: Mr. Chairman, all I know is
25 that I got information from the people in charge before
26 I answered the letter, and the way in which the letter
27 is answered is accurate in so far as my instructions
28 go. I am not used to having my word on a matter of
29 this kind challenged, I may say. I have been around
30 these proceedings for a good many years.



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2 MR. FOURNIER: Mr. Chairman, I would like
3 to say to Canadian Pacific counsel here that I am
4 not challenging his word; that I am not doubting his
5 word. If I do not make myself clear in English then
6 I would like to speak in French and you can be
7 sure I can make myself clear.

8 MR. SINCLAIR: Well, he can make himself
9 clear in the Lord's language, Gaelic,
10 and we can understand better.

11 MR. FRAWLEY: I think the French language
12 would have a wider understanding in this room than
13 Gaelic.

14 MR. SINCLAIR: With all due respect, I
15 think, Mr. Chairman, that the Gaelic language would
16 be understood better.

17 THE CHAIRMAN: Well, on this point I am
18 going to suggest that Mr. Sinclair and Mr. Fournier
19 speak to one another again after we adjourn. And,
20 in the meantime, I do not think we have a French
21 reporter and much as it would be desirable from
22 Mr. Fournier's standpoint, we cannot very well go
23 ahead on that basis.

24 MR. SINCLAIR: Of course not.

25 MR. FOURNIER: Sir, before proceeding any
26 further, I certainly resent the comparison that we
27 might as well speak in Gaelic. My learned friend
28 should know ---

29 THE CHAIRMAN: That is only a joke, Mr.
30 Fournier.



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MR. FOURNIER: And I will not go any further -- if I speak English here, it is just to accommodate the majority of the Commission. I am not obliged to speak English. I should stress that.

6

THE CHAIRMAN: That is a joke, Mr. Fournier, between Mr. Sinclair and myself who were both raised on oatmeal and Gaelic.

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MR. SINCLAIR: That is correct, Mr. Chairman.

10

MR. FOURNIER: Q. Mr. Emerson, I will go to the next question, and I also know there will be some objection from your learned counsel. Can you give us the gross revenues and profits of each of these companies owned by the C.P.R.? I mean in the trucking business.

15

16

MR. SINCLAIR: Mr. Chairman, here again we take the position that the profits of these companies are a matter that involve the management of these companies, and we object to producing them. In so far as that is concerned, I think I have stated before, the Commission's staff, their adviser, was given full access to our ---

22

23

THE CHAIRMAN: We have all that information.

24

MR. SINCLAIR: That is right, on a confidential basis.

25

26

MR. FOURNIER: Well, that is all. I am satisfied for that.

27

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THE CHAIRMAN: I may say, Mr. Fournier, that we had our accountant go into the C.P.R. offices and get all that information for us, and none of it

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was refused.

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MR. FOURNIER: Q. Now, Mr. Emerson, I would like to refer you to page 18333 of the transcript of your examination in chief.

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7

MR. SINCLAIR: That is Mr. Cooper's cross-examination?

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MR. FOURNIER: That would be Mr. Cooper's cross-examination, yes.

10

THE WITNESS: Yes, Mr. Fournier.

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MR. FOURNIER: Q. In an answer to a question from Mr. Cooper regarding artificial restriction regarding piggyback, you gave as an example of artificial restriction the case of one provincial highway regulatory board requiring the motor carrier to take out a licence for each carrier for each route operated over each railway, and attached to taking out a licence was a fee of \$200 for the year 1960, and it is indicated that the annual renewal will be \$100.

20

21

On page 18334, you later referred to this case as having taken place in the province of Quebec?

22

A. Yes.

23

24

Q. Are the piggyback trailers owned by the railways subject to the purchase of a licence, too?

25

26

A. No, that licence does not apply to piggyback trailers operated by the railways.

27

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Q. So, you neither pay the \$200 nor the \$100?

29

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A. No, not in respect of railway owned trailers.



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Q. But the private -- the independent carriers from the railways are paying this amount?

A. The motor common carriers, yes, sir.

Q. On page 18346 of the transcript, you agreed with Mr. Cooper that two railway lines parallel are close together by either ten miles or something short of twenty miles; did you not?

A. Well, it might be, yes.

Q. I think it is at the bottom of the page:

"A. I think that 20 miles would be an upper limit."

A. Yes, and of course, this is conditioned by the physical characteristics of the terrain.

Q. Yes, of course, in the case where instead of two railways less than 20 miles apart, and therefore in a parallel line, you would have a railroad and a railroad's trucking company or companies using a highway less than 20 miles away from the railway, or in the same direction, would you say they would be parallel lines also?

A. Well, I haven't thought about it that way. It might be that they serve perhaps the same general area and perhaps largely the same group of customers. It might be.

Q. Would you say, for instance, that the road of the north shore of the St. Lawrence going from Montreal to Quebec -- the highway -- is definitely parallel to the C.P.R. road?

A. Yes, I think that is a fair example.



1
2 Certainly most of the way across Canada the trans-
3 Canada highway is just outside our right-of-way fence,
4 figuratively.

5 Q. We will come to that question a little
6 bit later.

7 On page 18385 and 18386 of the transcript,
8 in answer to a question by Mr. Carter, you said you
9 could not recall any joint highway services following
10 any arrangement between the two railways.

11 Mr. Carter then went on to ask you whether
12 your company had given any consideration to the
13 possibility of the cooperative arrangement under
14 Section 17(2)(d) of the C.N.-C.P. Act with the
15 Canadian National which also has certain truck operations.
16 And in your answer to the second question, it amounted
17 to a no; is that true?

18 A. Yes, for the reasons I set forth there.

19 Q. In terms of the answer you gave to
20 Mr. Carter, I should like to ask you, Mr. Emerson,
21 whether you would go so far as to say that there has
22 been no understanding of any sort between the two
23 railways as to the handling of merchandise on highway
24 services or highway and rail services. My question
25 includes even such understanding as to region of
26 operations of highway services and so on?

27 Do you get the question?

28 A. I am not sure that I have it in its
29 complete context. You say are there any understand-
30 ings between the two railways concerning --- ?



- 1
- 2 Q. Concerning the handling of merchandise
- 3 by highway services or highway and rail services?
- 4 A. No, I cannot think of any.
- 5 Q. No arrangement, expressed, tacit, or
- 6 implied?
- 7 A. No, none that I am aware of. No, sir.
- 8 Q. Is there any arrangement; any agreement
- 9 implied, expressed, or tacit between the two railways
- 10 as to the area of operations as to region concerning
- 11 highway carriers?
- 12 A. No, sir.
- 13 Q. In other words, to make myself clear,
- 14 would there be a sort of agreement that, let us say,
- 15 the B.C. region would be mostly reserved to Canadian
- 16 Pacific, while Nova Scotia region would be mostly
- 17 reserved to the Canadian National Railways as to
- 18 trucking business?
- 19 A. No, there is no such understanding.
- 20 Q. Do you think that an arrangement of this
- 21 kind might take place in the future?
- 22 A. I certainly cannot anticipate it, no.
- 23 I see no reason why it would.
- 24 Q. I understand that your company is
- 25 receiving also from the government to a certain
- 26 extent some subsidies; do they not?
- 27 A. Yes, that is the common misapprehension.
- 28 We are unfortunately the agent in a number of instances
- 29 to which subsidies are paid to shippers, if that is
- 30 what you have in mind.



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Q. Or some statutory subsidies, such as on the Crow's Nest Pass, and so on?

A. We get a subsidy on that?

Q. I am asking you?.

A. No, sir.

Q. Well, do you think that public funds should be voted by the government to permit the purchase by a railway of a trucking company or companies which does or are competing with the railroad? What is your opinion on that?

A. Well, it is a matter that so far as I am concerned, representing Canadian Pacific, does not apply.

Q. But what is your opinion, as a whole?

A. Well, I have not addressed myself to that question as a person. All I could give you would be a purely personal opinion.

Q. You are aware, I presume, Mr. Emerson, that the C.N.R. submission on page 70, at the bottom of the page, the management of the Canadian National says as follows:

"Canadian National recommends that Section 156(1) and 341 should be amended to allow agreements to be made between rail and highway carriers for the establishment of continuous routes and arrangements by rail and road and to divide the earnings from such through movements between them."

Is the C.P.R. in favour of such an amendment to the



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law?

A. Well, Mr. Fournier, our position on this is perhaps a little different. It is a question of law, but I am informed that our interpretation of the matter is that the legislation does not presently bar such arrangements.

Q. Do I understand from your answer that you are not opposed, or that you would favour such legislation?

A. Well, we do not think it is necessary.

Q. You do not think it is necessary?

A. Because it is not prohibited by existing legislation.

Q. Do I understand that actually it is possible for the C.P.R. to receive certain merchandise and to, instead of having it carried by the rails, have it carried by one of their own trucks?

A. Yes, that is done.

Q. That is correct?

A. Yes.

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Q. It is the company's own choice, I mean, it is your own decision.

A. Well, you are speaking now, of course, of British Columbia particularly where our integrated merchandise service plan is in effect.

Q. It is so in British Columbia?

A. Yes.

Q. You are satisfied with this way of transporting?

A. We think it has worked out to the satisfaction of all concern, the customer, first of all, and the railway company as well.

Q. Would it not be possible for your company's trucks and busses to take traffic away from the rail line and then have a guarantee as support of it as outlined on page 59 of your submission and perhaps the amendment to article 168 and a similar one on page 57 to 316. My question is this, if you are free to divert traffic either from truck to railway or vice versa, is there not a danger that the trackage will lose traffic and then you may go before the Board and ask for the abandonment of that trackage and if the Board refuses your losses will be covered, will be guaranteed in your proposed legislation.

A. Well, the reason why we would divert traffic, if you will, from rail to truck within the merchandise service area would be because that is a more efficient way of handling it, just what we are



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2 seeking. If that was so and the result was that the
3 railway branch line was no longer self supporting and
4 became uneconomic then there would be no longer any
5 reason for its existence.

6 Q. And then, if the Board decides that it
7 should still go on in spite of the fact that your own
8 trucking company will be diverting traffic because it
9 is more beneficial or more efficient, you will ask
10 for your losses to be guaranteed according to article
11 168 as proposed.

12 A. We would ask for discontinuance of the
13 line, that would be our position. If somebody opposed
14 it the onus would be on them to guarantee the revenues
15 to insure its continued operation.

16 Q. Did the rules and limitations imposed
17 on the railways have anything to do with your company
18 going into the trucking business?

19 A. The rules and limitations?

20 Q. The rules and limitations imposed on
21 the railway have anything to do with your going into
22 the trucking business?

23 A. I cannot think of any context at the
24 moment in which it did. I cannot think of any at the
25 moment. You are speaking of regulations through the
26 Railway Act or orders of the Board of Transport
27 Commissioners?

28 Q. Yes.

29 A. None that occurs to me at the moment,
30 Mr. Fournier.



1
2 Q. Well, what was the reason the railways,
3 especially your company, entered the trucking
4 business? I mean, the long haul and I do not mean
5 trucking business within the city or the metropolitan
6 area. I mean the long haul, let us say, long haul
7 for a truck would be 200 miles or 100 miles.

8 A. Well, as I said this morning, Canadian
9 Pacific is a transportation agency and we think we
10 ought to have the opportunity to use all the tools of
11 transportation that are available to develop the most
12 efficient and economic service, truck transportation
13 in certain areas and other types of traffic is
14 undoubtedly superior to rail. Our aim is to put the
15 two together, to reap the greatest benefit for all
16 concerned.

17 Q. In the case of branch line abandonment
18 for which you have made an application successfully
19 or not in cases pending during the past ten years ---?

20 A. Yes.

21 Q. Have you operated a trucking line
22 parallel in whole or in part to the railroad line or
23 have you contemplated establishment or acquiring of
24 such a line?

25 A. Well, I cannot answer that question
26 off hand. There may have been and I am not by any
27 means sure of this. Some instances in which a branch
28 line was parallel to a trucking service that we owned
29 but I cannot recall any. A detailed check would have
30 to be made.



1
2 Q. You understand my question? I will
3 phrase it a little differently and find out if you
4 understand it. I mean, while you were making application
5 to abandon a line where you were operating, was your
6 company operating at the same time a parallel trucking
7 business or trucking line to that track?

8 A. No. Looking over the list here that I
9 have, Mr. Fournier, I do not recall that any of them
10 were parallel by a trucking operation in which we were
11 interested.

12 Q. What I mean by parallel, I mean within
13 the vicinity of about 20 miles.

14 A. Well, within a distance of 20 miles is
15 pretty broad. I take parallel in this context to be
16 serving the same community.

17 COMMISSIONER GOBEIL: May I ask a question
18 here? Taking a typical example, I think it would
19 make sense that the principle you developed this
20 morning is not that the railways operating as a
21 private industry, as it happened that on a branch
22 line there is a truck line which would give the same
23 service, whether that truck line is yours or anybody
24 else's, you would be justified, according to your
25 way of thinking, to abandon the rail line.

26 A. Yes. I do not see that the question
27 would turn on whether or not we owned or operated the
28 trucking service.

29 COMMISSIONER GOBEIL: It is the question of
30 a truck line there?



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A. Yes, alternate service, yes sir.

MR. FOURNIER: Q. Could you say at this time if your company intends to continue buying more trucking companies?

A. I know of no area in which we are interested in additional trucking operations at the present time.

Q. Or do you feel that your present control or ownership of trucking companies gives you adequate basis for coordination?

A. Yes, it gives us the reasonable system, I think, and I should like to make it clear that we are not endeavouring and have no wish to establish a monopoly on transportation in any sense of the word. We are seeking to equip ourselves with the tools that will enable us to provide the service in competition with such others as there may be.

Q. Could you tell us if you intend to enlarge the actual trucking business that the C.P.R. owns?

A. Enlarge the companies?

Q. Yes, to acquire new trucks and so on and so forth in order to enlarge the traffic?

A. That will depend on the growth of traffic within this country itself and we certainly hope it will grow and prosper and that, of course, will require more vehicles. Yes.

Q. Do you intend, for instance, to enlarge,



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to extend the traffic of Smith Transport in the province of Quebec?

A. To extend the traffic?

Q. To enlarge the traffic. I mean, to acquire some more trucks and to enlarge the business of Smith Transport within the province of Quebec?

A. Well, I would hope within the province of Quebec Smith Transport would grow with the province and would require more trucks but not to the exclusion of other truckers by any manner of means.

Q. Is it not possible that in acquiring these trucking firms or establishing them that some other service areas were deprived of much needed capital, for instance, some capital might be needed for improvement of the road bed.

A. Of the railway you are speaking?

Q. Yes.

A. No, sir, I would say each of those has to stand on its own feet.

Q. On page 44 of your submission, the last paragraph which reads as follows:

"Extension of passenger train pooling arrangements have been considered by the two railways from time to time since 1950. Currently a joint committee is studying passenger service south-west of Toronto and this committee will then deal with other passenger services."

Has the committee referred to studied the



1
2 present pooling arrangement between Montreal and Quebec,
3 and, if so, what were the conclusions of that committee
4 on this arrangement?

5 A. No, the joint committee has not been
6 studying that. This committee has been studying areas
7 in which pooling is not in effect rather than areas in
8 which it is.

9 Q. What were their conclusions?

10 A. This committee has not reached a
11 conclusion in this matter.

12 COMMISSIONER BALCH: May I ask a question here?
13 Mr. Emerson, what the committee has worked on at the
14 present time, on the proposed pooling, will that be done
15 under the provisions of the Canadian National - Canadian
16 Pacific Act if it is done?

17 A. Well, as I say, no conclusion has been
18 reached but offhand I would doubt it very much.

19 COMMISSIONER BALCH: You doubt it?

20 THE WITNESS: Yes, sir.

21 MR. FOURNIER: Q. At the top of the page:

22 "The majority of these line extensions were
23 required for the movement of products of a
24 single shipper".

25 Were there agreed charges involved there?

26 A. Were there agreed charges?

27 Q. Yes.

28 A. No, not that I am aware of -- no, I have
29 confirmed that and there were none.

30 Q. I am sorry.



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A. I have confirmed that statement I made.

Q. And there are no agreed charges?

A. There have been no agreed charges.

Q. When there is more than one shipper involved in a development like this, how do you deal with the rates to the different shippers? Have there been cases of this sort?

A. How do we deal with the rates to different shippers?

Q. Yes, to make it clear, let us go back to the head of page 50 where you say:

"The majority of these line extensions were required for the movement of products of a single shipper."

A. Yes.

Q. The majority of these, therefore, there are some lines where there is not a single shipper?

A. I can think of one, yes -- no, in that instance I had in mind the movement from the two shippers took place under normal commodity rates.

Q. At page 52 of the last paragraph, you say:

"Based upon a branch line of average length and upon average conditions insofar as revenue per ton mile, length of haul, type of traffic and present costs, it is my view that a branch line with less than 25,000 net ton miles per mile of line would justify a detailed economic study unless there are clear



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Emerson, cr.ex.
(Fournier)

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over-riding factors such as potential traffic."

Does this estimate of 25,000 tons vary with
the length of the line?

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2 Q. Well, I haven't addressed myself to
3 that question. At the moment I can't see why it would.

4 Q. On page 53 you say in the second
5 paragraph that Canadian Pacific has now or expects to
6 have by the end of the year applications for the aban-
7 doning of 310 miles of line. Is there any part of
8 that 310 applicable to the province of Quebec?

9 A. Yes, there are.

10 Q. Would you name them?

11 MR. SINCLAIR: Just a moment, Mr. Chairman.
12 It is our position here that until the applications
13 are filed and a final decision is reached ---

14 THE CHAIRMAN: Yes, I think, Mr. Fournier,
15 bearing in mind the matter of climate which our
16 C.N. friends urge so strongly, that that is probably
17 right.

18 MR. FOURNIER: Q. At page 55, the last
19 paragraph, you say, "If, of course, just and reasonable
20 remuneration for the handling of export grain in
21 western Canada is not to be received by the railway,
22 a very large mileage, something over 2,500 miles,
23 of branch lines in the prairies would still of
24 necessity be candidates for abandonment."

25 A. Yes.

26 Q. And then at page 56 you say, "I think
27 the Commission has been told that there is no
28 programme on Canadian Pacific for a large scale
29 abandonment of branch lines." Would you say that
30 2500 miles is a large scale?



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A. No; but, Mr. Fournier, we are very hopeful of the recommendations of this Commission to solve this problem for us.

Q. And if it does not?

A. If it does not, then ---

Q. You mean you will have to abandon 2500 miles of trackage?

A. We would have that and it would have to be very closely looked at, yes, sir.

Q. Would it be all branch lines?

A. Yes, it would be all branch lines. I do not mean it is every branch line that exists, but all of the 2500 miles would be branch line territory.

Q. Don't you think sincerely, Mr. Emerson, that looks like a threat?

A. No, it is not intended in that sense at all, sir.

Q. At page 62, paragraph 4, at the bottom of the last complete paragraph, you say, "It is believed that some intercity services will meet their variable costs and make a contribution to railway overhead costs." Are there any intercity services in the province of Quebec which are meeting their variable costs and making a contribution?

A. Well, I would hope we would not write off the service between Montreal and Quebec, for example, as being an area in which we could continue in the passenger business, which would make its variable costs and a contribution.



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2 Q. In the next paragraph you say, "It is
3 completely unrealistic in considering passenger train
4 service on Canadian Pacific to look upon it either
5 historically or currently, other than as traffic
6 which is moved on an incremental basis and this has
7 nothing to do with economics or what some people term
8 incremental by necessity and not by fact."

9 Would you care to expand that statement and
10 elaborate on it, Mr. Emerson?

11 A. Perhaps I could put it this way:
12 Canadian Pacific was built primarily for the trans-
13 portation of goods. The movement of passengers has
14 been incidental -- and I am speaking here very generally
15 -- but the movement of passengers has been generally
16 incidental to the main business of the company which
17 is the transportation of freight; and the movement of
18 passengers took place as an adjunct to its freight
19 business.

20 Q. On page 66, speaking about the intro-
21 duction of The Canadian: is The Canadian a profitable
22 train?

23 A. I don't know. I haven't seen conducted
24 a study on The Canadian itself which would indicate
25 whether it was meeting its variable costs or not. I
26 think it would about break even the year round. In
27 the summer time, when you get heavy patronage, I think
28 it would do well. I think in the winter time perhaps
29 not so well. Over the year round it would perhaps
30 break even.



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Q. Are you of the opinion that the scenic dome is a very essential point of attraction?

A. Yes, sir, I think that has been a major feature of the train which has attracted passengers to it.

Q. Don't you think it would be profitable to your company to have some scenic cars on other trains such as Montreal-Quebec?

A. Well, it is very nice country down there, Mr. Fournier, and from that standpoint it may be desirable but the difficulty is that it is too short a run to be really attractive to many people, I think, in that context.

Q. You don't think it would attract tourists and traffic?

A. Not in any great numbers, I would not think, no, sir.

Q. And prevent people from using their own cars, and taking trains just for the pleasure of the scenery?

A. No, I don't think it would be a major factor in that area.

Q. On page 68, the second paragraph, where you mention different arrangements offered to the travelling public, would you think of offering a package deal, for instance, tickets, meals, porter services, red caps, at a price comparable to what is being offered on, say, a flight from Quebec to Ottawa?

A. Well, I can see considerable difficulty



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2 in arranging a package deal such as you suggest on
3 a short run from Quebec to Montreal. You see, if
4 you have a package deal it implies a particular rate,
5 and one passenger gets on a train that leaves Quebec
6 at two in the afternoon and he is in Montreal at five-
7 thirty or six o'clock and has his dinner after he gets
8 off the train; but another one gets on at four o'clock
9 in the afternoon and arrives at eight-thirty with the
10 meal thrown in, and there is quite a disparity between
11 the two. I don't think the package plan is really
12 feasible for short hauls.

13 Q. Did you ever consider building a new
14 station at L'Ancienne-Lorette in order to shorten the
15 trip from Montreal to Quebec and allow people to get
16 off the train within two and a half or three hours?

17 A. At what point?

18 Q. L'Ancienne-Lorette or Champigny, where
19 you have a station there?

20 A. No, I have never heard that suggested.
21 There have been representations made in the past for
22 a new station at Quebec, but I don't recall the site
23 you mention here. I think it would be some consider-
24 able distance, as I recall it, from the centre of the
25 city. I don't have the site exactly in mind. I should
26 think it would detract from the feasibility of rail
27 passenger service for a great many people and would put
28 us rather in the situation of the air lines where you
29 have the airport quite some distance removed from the
30 centre of the city. That is one of our advantages,



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and we would hate to lose it.

Q. It has been suggested to stop at La Cote des Bell for the uptown people, who are most of your clients on the train?

A. Well, I don't recall that suggestion specifically. It may have been.

Q. At page 68, the last paragraph, "Substituted service by highway for the handling of express was planned and applications to provincial regulatory boards were made for the requisite licences." Did you have any application refused in the province of Quebec?

A. I don't recall any application which has been refused in the province of Quebec in recent times.

Q. At page 70, the second paragraph, and generally in your submission at various pages you talk about elimination, reduction, substitution and consolidation: all of this has the effect of reducing costs?

A. Yes, sir.

Q. And it has also the effect of reducing service?

A. Yes, sir.

Q. I understand that decisions like those are taken carefully?

A. Yes, indeed.

Q. And that you proceed very slowly about it after careful examination, but did you figure how



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2 much your company is losing by traffic which it does
3 not take by curtailing the service?

4 A. Well, we only take steps to curtail
5 the service where clearly the savings are greater than
6 the revenue you lose. In other words, the expenses
7 cut off exceed the revenues that are lost.

8 Q. At page 75, the last paragraph, you
9 talk about restricting your passenger operations to
10 the intercity service and you say, "The type of
11 service required will be predominantly a coach
12 operation provided in part by the RDC's, with over-
13 night service limited to the next few years."

14 A. Yes, sir.

15 Q. Does this mean that you are thinking
16 of discontinuing all sleeping car trains in the next
17 few years?

18 A. Well, I think a great many of them will
19 be reduced, yes.

20 Q. Do you have in mind short distances such
21 as Montreal-Quebec?

22 A. Montreal-Quebec could be one, yes, sir.

23 Q. Could be one?

24 A. Could be one.

25 MR. FRAWLEY: Do you have an overnight ser-
26 vice now between Montreal and Quebec, Mr. Emerson?

27 THE WITNESS: Yes.

28 MR. FRAWLEY: That is better than Calgary-
29 Edmonton.

30 THE WITNESS: Yes, and it is a little better



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patronized too.

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MR. FOURNIER: Q. Would it be possible to try to make up the deficit by increasing the price of the berth?

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A. I don't think you could really do that under present circumstances because passenger travel is highly competitive. With a good highway between Montreal and Quebec it is possible to drive between the two points in time which very closely approximates train times, and also there is the question of air service which is convenient and still cheap. So, it would be rather hard to persuade any great number of passengers to pay substantially more for the privilege of riding on a train.

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COMMISSIONER BALCH: Is there a thought of putting RDC's between Montreal and Toronto, and Toronto and Detroit?

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THE WITNESS: No, it was mentioned in "Predominantly a Coach Operation provided in part by RDC's". Toronto-Montreal could be a suitable area for RDC's, I should think, but I would not want to leave the impression it was definitely planned, or anything of that sort.

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COMMISSIONER BALCH: No.

MR. FOURNIER: Q. At page 18350 of the transcript, Mr. Cooper asked you the following question: "If I understood you correctly this morning these commuter services are no longer a problem? A. No, I think not. They are meeting their costs and are



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not a burden on other services so far as our figures indicate."

Would you say it is the same thing as to commuter services in the province of Quebec around Montreal?

A. That is our prime commuter area on Canadian Pacific, and that would be the area we had in mind; that is what this exchange with Mr. Cooper had reference to.

Q. There is something here on which I would like to have an explanation: I don't know if you have seen the Alberta Wheat Pool or the Manitoba Wheat Pool Elevators precis prepared by W. B. Saunders & Company? Have you seen that precis before?

A. I am not sure about that one. I have seen a number of them.

Q. It says in there that both roads have agreed -- and this would be at page 109 of the precis ---

MR. SINCLAIR: Of course, Mr. Fournier, this part of this brief has not yet been presented to the Commission, and I note what you have marked, and I may as well say now that when Mr. Saunders comes here I am going to ask him where, when and by whom.

MR. FOURNIER: All right, that settles my question. Thank you, Mr. Emerson.

---Adjournment.

Howe & P. McTague

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No.:

DATE:

114

8 Nov 1960

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	<u>Page</u>	<u>Line</u>	
1			
2			
3			<u>Volume 114</u>
4	18836	21	Change "got" to read "broadened"
5	18838	3	Insert "on" between "traffic" and "which"
6			
7	18856	18	Change "low rated return" to read "low rate of return"
8	18858	5	Delete "in the increase of"
9		6	Delete the word "it"
10		9	Change "industries it" to read "industry which"
11			
12	18887	19	From "And I suggest many of...the same calibre" to be recorded as 'Answer'
13			
14		22	Change 'A' for answer to 'Q' for question.
15	18888	13	Change "Matawaschan" to read "Wetaskawin"
16			
17	18903	18	Change "stautory" to "statutory"
18		21	Change "opposed" to read "proposed"
19		24	Insert "as" between "revenues" and "passenger"
20	18906	5	Change "plan" to read "plant"
21		7	Change "plan" to read "plant"
22	18914	20	Change "costed" to read "cost"
23	18938	6	Change "discontinuance" to read "continuance"
24			
25	18949	19	Insert "trip" between "118" and "passes"
26	18950	30	Change "before" to read "deplore"
27	18952	25	Line to read "in other words, it averages about 1½¢,"
28			
29	18960	13	Change "or be it" to read "albeit"
30	18961	18	Change word "on" at end of line to read "of"



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I N D E X

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E X H I B I T S

183	Two pages headed Basis of Calculation of the Revenue Ton Mile per Mile of Line at which Highway Operation is more economical than Railway Operation.	18884
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3 ROYAL COMMISSION ON TRANSPORTATION
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6 Proceedings of hearings held
7 in the Convention Hall,
8 Chateau Laurier, Ottawa,
9 Ontario, on the 8th day of
10 November, 1960.
11 -----

12 COMMISSION

13	Mr. M. A. MacPherson	Chairman
14	Mr. H. Anscomb	Member
15	Mr. A. H. Balch	Member
16	Mr. R. Gobeil	Member
17	Mr. H. A. Mann	Member
18	Mr. A. Platt	Member

19
20 COMMISSION COUNSEL

21	Mr. A. G. Cooper, Q.C.	
22	Mr. G. S. Cumming	
23	Mr. H. W. Ellicott	Adviser
24	Mr. F. W. Anderson	Secretary
25	Major N. Lafrance	Assistant Secretary

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Ottawa, Ontario,
Tuesday,
November 8, 1960.

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4 --- On commencing at 10:00 a.m.

5 THE CHAIRMAN: Order, please. Mr. Frawley?

6 MR. FRAWLEY: Thank you, Mr. Chairman.

7 MR. SINCLAIR: Before Mr. Frawley starts, I
8 have been informed by my friend, Commission Counsel,
9 Mr. Cumming, that Mr. Brazier from British Columbia will
10 not be cross-examining Mr. Emerson, and I thought for a
11 moment or two what caused this. I now have the answer,
12 and it is in the Daily Colonist of November 8, 1885,
13 and it says there that with the completion of the railway
14 Canadian Pacific from ocean to ocean, British Columbia's
15 last grievance disappeared.
16

17 CROSS-EXAMINATION BY MR. FRAWLEY:

18 Q. Mr. Emerson, I suppose you would agree
19 that -- and I am referring to what you say on page 2,
20 about the end of the third paragraph, where you are
21 speaking of higher speeds and increase in speeds has also
22 enabled the railway to better meet competition -- I
23 suppose you would agree, would you, that it is the overall
24 transit time that governs when you are examining the
25 improved efficiency of railways?
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27 A. Yes, that is the overall transit time,
28 including time in movement and the time unloading and
29 loading.

30 Q. And I suppose you would agree that it is
a fact that in and of itself freight train speed has no



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competitive value?

A. Only to the ~~end~~ that it reduces the time from point of shipment to point of destination.

Q. Well, yes, but if you move the cars over the road more quickly only to have them languish in a terminal some place, you have not made much improvement in service as far as the shipper is concerned?

A. I can assure you we do not move cars over the road quickly for the purpose of leaving them in the terminal.

Q. But if you had speed over the road and undue time taken in the terminals, then you would lose your efficiency?

A. If you lost the time in terminals, yes.

Q. That is all I was asking you. Now, I want to ask you if you have made any study of the overall transit time?

A. Generally -- no, I do not recall any study of that nature.

Q. No. You endeavoured to do something of that sort with regard to export grain?

A. Yes, that was a specific study, of course.

Q. But you did not apply any test of that kind to ordinary traffic?

A. No, not to traffic in total, no.

Q. So, to know really what the results of any overall study concerning transit time would be, you would have to know what such study would reveal.

A. Of course, we are employing many means to



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2 ensure that cars do not wait around unnecessarily, either
3 loaded or empty. One of the tools that is of assistance
4 to us in that connection is our integrated data
5 processing machine, the 705, as it is called, which is
6 able to select and designate cars that have been not
7 reported in movement for a period of time, and that pin
8 points individual cars which have been delayed and
9 enables corrective action to be taken, and that is
10 producing significant benefit.

11 Q. You do not expect the IBM machines to
12 move the cars faster through the terminal?

13 A. That is not the point. The point is that
14 the IBM detects the car which is delayed and puts a flag
15 up, as it were.

16 Q. The IBM machines tell us, for example,
17 last night who is going to be the President of the
18 United States before the voting starts. I wondered if
19 you have any such ambitious intentions?

20 A. In a similar application, if there was
21 one that was feasible, we would certainly consider it.

22 Q. I have two or three matters to go over
23 with you, Mr. Emerson, but I want to call your attention
24 first to two or three isolated matters on page 24. You
25 talk about the growth of the pool car traffic, and that
26 pool car operation is, Mr. Emerson, essentially the
27 consolidation of less carload shipments and shipments of
28 less carload shipments at carload rates?

29 A. Well, it arises, I think, under the mixing
30 privileges in the tariff, yes.



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Q. Now, you will forgive me for having had the thought when I read that that Canadian Pacific might very well have engaged in this consolidation just as effectively as the forwarding concerns?

A. You mean it could all have been handled by Canadian Pacific, instead of through pool freight car agents, as it were?

Q. Yes, that is just about what I mean, Mr. Emerson.

A. Well, I do not think the results would have been as good.

Q. As good?

A. No.

Q. Do you admit that your freight collecting services would be second best to these forwarding companies in Toronto and Montreal?

A. No, I do not admit that, but by making provision for the handling of traffic which is assembled or dispersed at the other end by the pool car operators, we have got in effect our base.

Q. Yes, but, of course, what they are doing, the forwarder is getting the l.c.l. rate, but you are only getting the carload rate from the forwarder?

A. That is true. Our prime business, of course, is the movement of freight in carloads.

Q. Your prime business, now, Mr. Emerson, is getting all the money you possibly can into your revenue department; is it not?

A. No, I would not put it on as narrow basis



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as that, Mr. Frawley.

Q. Well, you are not earning enough money, according to your ideas about how the Canadian Pacific's revenue should be coming in, you are not earning enough money; you are not earning enough net; not enough net on grain?

A. No, sir.

Q. Not enough on many other things, too?

A. Passenger, for example.

Q. But, in any event, whether you have ever explored it, is it fair to ask whether you have ever explored the possibilities of eliminating that middle man and getting more revenue out of the traffic which has now gone to the pool car people?

A. The broad implications of that have been considered, yes.

Q. Well, anyway, there is some revenue, you say, for the reasons you have advanced, that you decided to pass up?

A. We think that the best net results are obtained in the way we are handling it now.

Q. On page 27, you talk about l.c.l. traffic, and you say that you do not believe that l.c.l. traffic is lost traffic but is subject to managerial control and profitable handling. I wondered whether you would by that mean that l.c.l. is now profitable?

A. I would not say, from any figures we have developed, that l.c.l. is highly remunerative, no. It is too labour-intensive at the present time to be



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other than marginal, but the point which I tried to make in this paragraph is that it is traffic which we have the freedom to adjust our services; to adjust our methods of handling, and to improve the situation.

Q. Tell me this. Do you have similar intentions about l.c.l. as you have about passenger, as to eliminating it if the profit potential cannot be realized?

A. No, because we think l.c.l. traffic can be made profitable; quite profitable.

Q. Just after you told me that you passed up the pool car end of the l.c.l. traffic, you still think it can be made profitable?

A. Yes.

Q. How can l.c.l. be made profitable, after your long experience with it?

A. This goes back to our concept and plans which we are working out for the integrated handling of merchandise through merchandise services.

Q. And you want to be left alone while you are trying to work that out. When we say, "Go to the government for a revenue on l.c.l.", you say, "Managerial control. Leave us alone; we will make it profitable".

A. We say go to the government?

Q. No, we say to you, "You go to the government for your l.c.l. losses, just like you are going to the government for your export grain losses". You say no?



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2 A. The circumstances are entirely different,
3 Mr. Frawley.

4 Q. You are losing money in both instances?

5 A. No, I would not admit that.

6 Q. Then, you are not losing money on your
7 l.c.l.?

8 A. I say it is marginal.

9 Q. Well, of course, have you any figures
10 before this Commission to indicate whether it is
11 marginal or deeply unprofitable or deeply profitable?

12 A. No, there are no figures, because to
13 produce those sort of figures would take a very long
14 and intensive study but ---

15 Q. That is right, but you spent a quarter
16 of a million dollars to ---

17 MR. SINCLAIR: Would you let him finish, Mr.
18 Frawley? You did not hear the "but ..." that he
19 wanted to assist you with.

20 THE WITNESS: The point is that l.c.l. in
21 terms of revenue is relatively small. In the total,
22 it is relatively small. Whether it of itself operated
23 at a loss or a profit could not, in the nature of things,
24 change the overall picture materially.

25 Now, for example, freight tonnage handled by
26 Canadian Pacific in the year 1959, 0.8%
27 of that was l.c.l. tonnage; 99.2% was carload.

28 Q. Mr. Emerson, all I am putting to you is
29 this, that you have come before this Commission with
30 a most exhaustive --- and exhausting, perhaps, I might



1
2 say -- study of the Crows Nest grain movement. You
3 have come before this Commission with nothing similar
4 on passenger; nothing similar on l.c.l.?

5 A. Not in the same detail, no.

6 Q. Nothing similar on your branch line
7 deficits?

8 A. Well, the branch line -- I would like to
9 talk about that in another context. It is a different
10 area.

11 But, dealing with the whole three put
12 together, the situation vis-a-vis the statutory grain
13 rates is this: that, in respect to them, our hands are
14 tied. In respect to these other areas, they are
15 susceptible to control by management and the taking of
16 corrective action, whatever it may be, to eliminate the
17 losses.

18 Q. I want to ask you about that in a
19 moment. Just let me be clear. You say for one reason
20 or another you have not brought these exhaustive studies
21 of the profitability or otherwise of these other traffics,
22 just the export grain?

23 A. Quite, because these are problems which are
24 in our hands which we are capable of solving. We do
25 not bring them here and lay them before this Commission,
26 because we are capable of taking care of them ourselves.
27 Now, the export grain situation is quite another.

28 Q. You tell me the l.c.l. is marginal.
29 Well, let me give you a homely little example in respect
30 to the harvest season in Alberta. The farmer's machine



1
2 on the farm breaks down, and he has to have parts from
3 the supply house in the city to repair his machine and
4 get his harvest in. Who used to take those out before
5 ten or fifteen years ago?

6 A. Before the advent of good roads, they
7 went largely by rail.

8 Q. About 98% by rail on l.c.l.?

9 A. I have not got any figure like that. I
10 would have expected between rail and l.c.l. and express
11 certainly would move that.

12 Q. Express and l.c.l. would get those
13 repair parts out to the farmer all over Alberta -- and
14 I could take in Manitoba and Saskatchewan, but for
15 reasons that are obvious, I am more interested in
16 Alberta ---

17 A. Yes, you mentioned ten to fifteen years.
18 I think, to attain the percentage figures you suggested,
19 I think you would have to go back before that period --
20 probably thirty years or more.

21 Q. Who is taking them out now to that
22 farmer waiting for the repair part to keep his machine
23 going?

24 A. Many are moved by truck.

25 Q. What portion are moving by truck?

26 A. I have no way of knowing.

27 Q. About 100%. Livestock has to move into
28 the yards by rail?

29 A. To a great extent they do today, yes.

30 Q. I remember a discussion with Mr.



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Jefferson I had once dealing with the question of loading en route from somewhere around Coronation through Lacombe to Calgary. I wonder how much they are taking from Coronation to Calgary now?

A. I do not know, I am sure.

Q. As a matter of fact it is common knowledge that the livestock traffic into the stockyards in Calgary and Edmonton is about 100% highway transport?

A. By no means, Mr. Frawley.

Q. What would be the percentage?

A. Well, I do not have the percentage in mind; I do not recall it. It certainly would not be 100%.

Q. Well now, Mr. Emerson, I am told they are even cutting down from the Peace River country by highway into the packing plant in Edmonton?

A. That might well be; Some of it is.

Q. If they are coming down from Peace River, I just wonder how much traffic you would be moving from Stettler into Calgary?

A. I am sorry, I have not figures on specific points.

Q. On page 48, you have some figures and I wonder if you have some other figures?

At the bottom of the first full paragraph, you say that the population has increased since 1932 by about 52%; revenue ton miles on Canadian Pacific, 158%, and the G.N.P., 255%.

Have you got any figures comparing 1929 with



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-- I suppose that is a 1959 comparison; is it?

A. 1958, in respect to population and in respect of gross national product ; 1959, in respect to revenue ton miles, Canadian Pacific.

Q. You have the percentage, Have you got the revenue ton miles in 1932?

A. Canadian Pacific?

Q. Yes.

A. Ton miles, revenue freight, 1932, 10 billion 067 million.

Q. And, 1958?

A. 1958, 26 billion 873 million.

Q. Now, have you got 1929 right there handy?

A. 1929, 14 billion 951 million.

Q. Yes. The figure that I have makes me suggest to you, Mr. Emerson, that 1929 versus 1959 is 74%, as against your 158%, when you take 1932 versus 1959?

A. Well, of course, that is true; if you take different years, you get a different relationship. But this was written here and it is pointed up in the context, the circumstances which existed at the time of the Duff Commission was sitting and made its report.

Q. That is right. The depression had begun to get into its stride in 1932, that is all, and I thought you might like to look at the 1929 figure; that is all.

A. I thought it was well in its stride in



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1932.

Q. More so than it was in 1929.

Now, you have said, either you -- I do not know whether you are quoting Mr. Crump -- at page 71. Oh, yes, you are quoting Mr. Crump. Just for handy reference, have you got that page reference from Mr. Crump?

A. Volume 28, page 4130.

Q. Thank you.

Now, it occurred to me that you probably feel under no obligation with respect to passengers that are discharged from your Atlantic Steamships. What do you feel about your passengers that you solicit overseas and discharge at Montral or Quebec and that want to go to Alberta or British Columbia?

A. Well, some of them at the present time move by rail, but many of them travel by other means of transportation. There are, to an increasing degree, other means of transportation available, so that if passenger train service for that distance became unavailable it would certainly not necessarily restrict the movement of passengers off ships arriving at Montreal or Quebec.

Q. Canadian Pacific has an Atlantic Steamship service of which it is understandably quite proud?

A. Yes.

Q. And I dare say, to keep traffic on these ships you certainly are looking for passenger



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traffic as well as freight traffic?

A. Yes, they are passenger carrying ships.

Q. Because you have some cargo ships -- I am referring particularly to your passenger ships.

A. Those ships are cargo liners. They also take cargo, as you understand, in addition to passengers.

Q. But even your Beaver ships take a few passengers?

A. Some of them take a few, but that is relatively insignificant.

Q. That is negative?

A. But the cargo carried on the Empresses is not insignificant.

Q. All I was concerned about is your sense of responsibility to those people. You are probably saying to me when you speak about other modes of transportation, you are thinking about air?

A. For distances such as you mention, particularly, yes.



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Q. Well, you are not thinking of people getting off steamships with all of their belongings and getting into buses and going out to the Okanagan Valley or the Blindman Valley in Alberta?

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A. I would not think many would travel by buses over that distance.

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Q. So, if you cannot look after them you are going to assign them to air travel?

9

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A. There is another means of transportation and that is the private automobile.

11

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Q. Well, those people who are landing from Europe hardly have acquired an automobile?

13

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A. It is surprising the number that do and bring them back.

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Q. All right. Then, the situation is you feel no compunction at all in turning your two transcontinental railways -- I am talking of not what you have already done but what you propose to do -- you have no compunction in turning the two transcontinental railways which will take a settler from Montreal to Vancouver by rail, to put him off on the dock at Montreal and tell him to get out by some sort of air travel or in some friend's automobile?

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A. Two transcontinental railways?

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Q. I am talking about your two transcontinental lines which you propose to turn into city to city trains.

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A. My difficulty is in following you in respect to the two.



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Q. You have already done that with Dominion?

A. You are speaking of trains?

Q. I am speaking of trains, yes.

A. Well, no, I do not think it will be as simple as that. I do not think we are taking people off the ship in Montreal and saying, "Here you are, it is up to you to find your own way." We can assist them in making ticketing arrangements for other means of travel. We do not abandon them on the dock and leave them.

Q. And here is the great C.P.R. that brought hundreds of thousands of settlers to the plains of western Canada by their ships on the Atlantic and by their trains in Canada and you are now going to discontinue these trains and say to these people from Europe, "Find your way across Canada"?

A. I do not think we suggested that at all.

Q. I am just asking you what you expect them to do. Do you expect to take them to Winnipeg and keep them there for twenty-four hours and then on to Regina for twenty-four hours and then on to Calgary for twenty-four hours?

A. If they should happen to travel that way that might well be but many of them will use other means of traffic, other means of transportation. We will assist them in ticketing arrangements.



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2 Q. I am not going to get into an argument
3 with Mr. Sinclair as to what some sections of the
4 Railway Act mean but I venture to say it may not be
5 quite so facile as you think to turn your two
6 transcontinental trains into some sort of a glorified
7 way freight and think that the Board of Transport
8 Commissioners are not going to do anything about it.

9 MR. SINCLAIR: Well, Mr. Chairman, if Mr.
10 Frawley does not want to get into an argument with me
11 as to what the sections of the Railway Act mean ---

12 MR. FRAWLEY: Q. Then there is another
13 Board besides the Board of Transport Commissioners and
14 that is the board of public opinion. Have you been
15 reading all the editorials in the western papers about
16 your new passenger intentions?

17 A. I have seen quite a number of them, yes,
18 sir, and generally my recollection of them would be
19 that it is regarded as an inevitable step.

20 Q. Well, I wish I had one that I read in
21 the Calgary Herald.

22 MR. SINCLAIR: Get the one from Lethbridge.

23 MR. FRAWLEY: Q. The Calgary Herald is
24 not too encouraging. Notwithstanding what some people
25 think there are still some parts of Canada that need
26 to be served by railway passenger trains but you and
27 Mr. Crump say no?

28 A. We say there will be some passenger
29 trains remaining in areas where it is needed and where
30 it can be operated profitably.



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2 Q. I might as well go on to something
3 that I find very intriguing and perhaps this is the
4 place to ask you about it. Is that what you mean
5 when you say there must be realism in regulation with
6 regard to the discontinuance of unprofitable lines?
7 I wondered what you meant when you said that on page 63,
8 I mean, in the context that you and I are now discussing,
9 the turning of your two transcontinental trains into,
10 whatever you want to call them, some sort of city to
11 city service. Let me put this to you: when you
12 adopted this city to city idea of yours you just
13 completely abandoned the concept of the Canadian
14 Pacific Railway continuing a transcontinental railway
15 passengerwise, have you not?

16 A. No, because the transcontinental
17 passenger train is still operating.

18 Q. Is still operating?

19 A. Yes, sir.

20 Q. What do you mean by that when you are
21 turning them into intercity runs?

22 A. You said we have abandoned them, but
23 we have not abandoned them as yet.

24 Q. If you do not mind, I call that an
25 abandonment, the concept of running a train from Mon-
26 treal to Vancouver, that concept has been abandoned?

27 A. I do not think I would agree with that
28 but I think we recognize in time to come the inevita-
29 bility of the situation under which a service like
30 that will perhaps no longer be available.



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2 Q. There is nothing inevitable about it,
3 if you had the same idea of government assistance to
4 keep the passenger trains running as you have to keep
5 the grain moving?

6 A. Of course, government assistance will
7 do anything but we do not ask for and do not advocate
8 government assistance to simply maintain a service
9 which is no longer required.

10 Q. I am not a prophet nor the son of a
11 prophet but I am afraid the last gun has not been fired
12 yet, public opinion has not completely expressed itself
13 with regard to the acceptance of your idea of turning
14 this great C.P.R. with its streamline trains running
15 across the prairies and through to British Columbia,
16 public opinion has not accepted the idea of abandoning
17 that to something that stops from place to place to
18 eat like a bus station.

19 A. Well, I suggest if you take a comparison
20 of the number of people who travel across this country
21 today by air and set that in comparison with the number
22 of people travelling by train it would be, in my view,
23 a very good test of public opinion. You would find
24 the public opinion has largely adopted that concept.

25 Q. I am talking about this thing that is
26 called public opinion and I quite agree and admit when
27 I use it, it is just as loose an expression as when
28 Mr. Sinclair uses it but whatever this indefinable
29 thing called public opinion is concerned, Canadian
30 Pacific in its board room in Montreal has decided we



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might just transfer these people, these old ladies who want to go and visit their sons in the west, school teachers who want to go and visit in western Canada in the summer, just transfer them, as they say at the post office, all up and away we go. Is that what you mean?

A. Many of them have transferred themselves already.

Q. Oh, you stand in line on The Canadian some time looking for a meal in the summer time and you will find they have not all gone all up.

A. That may be, and it may be in the summer time for one or more years to come the daily run will still go and give the service so long as there is a demand for it.

Q. It really comes down to this that somebody, somebody in the Canadian Pacific Railway or the members of this Commission or those Boards administering federal railways have to decide whether or not that is good enough and to say to these people, "Well, you give the railways patronage in the summer time and not in the winter time so we are going to take off that transcontinental service and take it to Winnipeg and a day or so later on to Regina and a day or so later on to Calgary." You say that is good enough?

A. I certainly do not agree you need the government or any other body to decide that.

Q. No?



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A. No.

Q. The Government of Canada can tell you to keep The Canadian running and send you a bill for the loss?

A. They perhaps could but we do not think it is necessary.

Q. You are telling them exactly that in connection with export grain?

A. The situations are entirely different.

Q. How is it different?

A. In the export of grain the Government of Canada has told us we must carry grain at this rate.

Q. And the Government of Canada has told you you must provide adequate facilities for passenger traffic?

MR. SINCLAIR: Which are reasonable to the railway company.

MR. FRAWLEY: Q. And the Canadian Government gives you \$25 million and 25 million acres in western Canada to operate the railway in perpetuity and that does not mean one way up to 1960 and another way afterwards.

A. I do not think it means to operate it through all the years as it was operated in 1885.

Q. All I would say is I would hope you would not be so bold as to say the last word has been said about that and cannot be possibly said until Parliament has approved?



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A. I certainly do not think it is a matter which has to go to Parliament.

Q. You do not?

A. No, sir.

Q. If public opinion is outraged about the business of the Canadian Pacific taking off these trains, is it not for Parliament to give some consideration to it?

A. I have seen nothing that says public opinion is outraged at all.

Q. Well, if you start running The Canadian up to Winnipeg and then putting it on a siding for a couple of days and then run it to Regina then just wait till you see. Mr. Emerson, would you turn to page 74 ---

A. Before we pass that point, I have a figure here that might be of interest to you. In a test made in March of this year on passenger carryings on The Canadian ---

Q. This is March?

A. Yes.

Q. I suppose you are giving it to me because it is the low point?

A. No, it is March because it was the month in which we made the test. In that month there was a daily average of eleven persons, only eleven persons who travelled from Montreal, Ottawa, Toronto and adjacent points to Calgary and beyond excluding Vancouver.



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2 THE CHAIRMAN: What would be the cost of
3 running the train?

4 THE WITNESS: Well, I have no figure on
5 that.

6 MR. FRAWLEY: Q. That is a very pertinent
7 question and we would be sitting here until the end of
8 1961 before we got that information. Yes, Mr.
9 Emerson, you were giving me March?

10 A. Yes. I should like to make that clear.
11 The first figure I gave you, eleven persons per day
12 between Montreal, Ottawa, Toronto and the adjoining
13 area on the one hand, Calgary and west, excluding
14 Vancouver, on the other hand, eleven persons.

15 Q. Excluding Vancouver?

16 A. Yes.

17 Q. People who were going some place in
18 British Columbia and stopping short of Vancouver, are
19 those the kind of people you mean?

20 A. Yes, stopping short of Vancouver.

21 Q. I do not know who goes out to British
22 Columbia that does not go to Vancouver. You mean
23 Chilliwack and places like that?

24 A. Perhaps some go to Calgary.

25 Q. You were referring to destinations -- I
26 just want to understand, you were giving me the
27 destinations and you say destinations short of
28 Vancouver?

29 A. No, I said destinations Calgary and
30 beyond short of Vancouver.



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Q. Yes, people going from Cochrane

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out over into British Columbia, who are those people?

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A. From Cochrane?

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Q. You say Calgary and beyond?

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A. Can you make it clear? The point of

7

origin on the one hand is Ottawa, Toronto, Montreal

8

and adjoining points.

9

Q. Yes.

10

A. The point of destination on the other

11

hand, was Calgary and beyond short of Vancouver which

12

would include Calgary, Edmonton, Lethbridge and

13

Kamloops.

14

Q. What were those figures?

15

A. That figure was a daily average of

16

eleven persons per day.

17

COMMISSIONER MANN: Do you have the figure

18

including Vancouver?

19

THE WITNESS: I was going to come to that

20

figure next. The figure for Vancouver itself is

21

eleven, so you have a total of twenty-two persons.

22

MR. FRAWLEY: Q. How about Vancouver

23

Island?

24

A. That would be included in the Vancouver

25

figure.

26

Q. Now, Mr. Emerson, would you go to

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page 74?

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A. The summer picture, of course, is

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very different.

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Q. Before I take you to -- no, I will take



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you to page 74 because we are talking about passengers and we might as well stay on that for the moment.

On page 74 you have an item there of \$8,400,000 on the cost of money on investment to be perpetuated at 10.4 per cent?

A. Yes, sir.

Q. That actually, I am told, is 10.38 per cent?

A. I think that is right. I think I should explain clearly what is meant by cost of money. Cost of money as used here is the cost to the company of the capital resources employed from all sources where it is secured. Now, that in contrast to return on investment, which is a different figure, cost of return on investment is what the investors receive from the company for the use of capital belonging to the investors. Now, the low rated return presently pertaining to Canadian Pacific Railway should not be confused with the cost of money because the former reflects disabilities imposed on the company by reason of statutory rates and the inadequate level of permissive earnings established by the Board.

Q. Now, Mr. Emerson, you see that figure of 10.4 per cent?

A. Yes.

Q. Which I am told is 10.38 per cent, but I will refer to it as the rounded off figure of 10.4 per cent.



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2 THE CHAIRMAN: That also reflects income
3 tax?

4 THE WITNESS: That figure also reflects
5 income tax, yes, sir.

6 MR. FRAWLEY: Q. Now, I suggest to you
7 that 10.4 per cent is $6\frac{1}{2}$ per cent return on investment
8 plus 3.9 per cent for income tax?

9 A. Well, it is not calculated in that way.

10 Q. I put it to you that really is essential-
11 ly what it is, and I will tell you why. What you are
12 saying, I suggest, is that you must earn 10.4 per cent
13 on the investment in order to have $6\frac{1}{2}$ per cent left
14 over for paying income tax. I put that to you, that
15 is what this figure means. Will you disagree or agree
16 with that?

17 A. I will disagree because that is not the
18 way it is arrived at.

19 Q. Each time you go before the Board of
20 Transport Commissioners for the freight rate increase-
21 you seek your millions of dollars of revenue, extra
22 revenue because you know you will have to immediately
23 turn over 47 per cent or whatever the per cent is to
24 the income tax and the revenue which the Board
25 authorizes for you, therefore, you have to increase
26 the money that you actually need to make up your in-
27 creased costs by plusing those revenues by 47 per
28 cent. That is right, is it not?

29 A. Income tax is a fact of life, it is one
30 which bears very heavily on Canadian Pacific and we



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have the postwar period ---

THE CHAIRMAN: And on the shipper.

THE WITNESS: Yes, on the shipper, necessarily. In the postwar period in the increase of the rate of increase it has had a considerable effect on our situation. Now, to explain to you that that is so I would like to point out that if you take a railway in comparison with other industries it is not so capital heavy. Taking Canadian Pacific as an example, our investment in the railway runs about \$3 for each \$1 of sales -- put it that way -- at the present time and very approximately this investment secured from the money market is one-third, very approximate, by debt securities and two-thirds by equity. Now, if for the purpose of illustration you take the earnings on the equity securities at a proper level as, say, 9 per cent and you may object to that but I will point out how it makes no difference in the comparison I am going to make presently.



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2 That means that for the \$2 of investment the company
3 has to earn 18 cents. Is that clear -- \$2 times 9
4 per cent? Since that is on equity, the income tax
5 at present rates, 50 per cent, is also 18 cents. If
6 you relate the income tax back to the sales of \$1, you
7 have 18 cents per dollar of sales represented by income
8 tax.

9 Now, to contrast that situation with another
10 company -- and I have no specific one in mind, but there
11 are many which would fall into this kind of situation --
12 wherein the rate of turnover is markedly different,
13 the industry is not capital heavy in the sense that
14 the railway is, and you might well have a situation
15 where your annual sales were three times the investment,
16 and for purposes of illustration, take a case in which
17 the annual sales are \$1 and the investment, say, 30
18 cents, for easy figuring: this investment, just the
19 same as in the railway, is represented by 10 cents of
20 debt -- one-third of debt -- and 20 cents in equity.
21 Again, earnings of 9 per cent on the equity would amount
22 to 20 cents times 9 per cent, which is .018 cents.
23 The income tax on that, again, is .018 cents at a
24 50 per cent rate, so in this kind of industry you
25 have the effect of corporate income tax as being a
26 1.8 per cent sales tax. To put it another way, income
27 tax is a capricious and concealed form of sales tax.

28 Q. Mr. Emerson, I simply put it to you that
29 income tax is not only a legitimate expense but it is
30 an essential expense?



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A. Yes, sir.

Q. And I put it to you, Mr. Emerson, that you have your expenses increased by 8.4 million because you have to make your income tax sales, make your wages costs, material costs and everything else out of your revenues?

A. Yes, sir.

MR. SINCLAIR: What was the figure?

MR. FRAWLEY: 8.4.

THE WITNESS: That is not all income tax, of course.

MR. FRAWLEY: Q. And your 13.7 that you are taking off there to arrive at this figure that you call burden, of course, is just 47 per cent of 29.3?

A. That is correct.

Q. And you take that off because there was no profit -- there was a loss?

A. That is correct.

Q. On these calculations. What bothers me is, how you can add income tax in on one line and take it off on the next and feel that is an acceptable calculation to present to this Commission?

A. I think there is no difficulty in that. You have to recognize the elements in the situation.

Q. In other words, your 10.4 is made up of the 6½ we have heard a good deal about, namely, what the company thinks it should earn -- that is the same 6½, I imagine?



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2 MR. SINCLAIR: Mr. Chairman, I object. We
3 have pointed out time and time again that my friend
4 says it is what the company should earn. This has
5 not been presented to this Commission other than cost,
6 and the question of what it should earn is an entirely
7 different question and one that is not before this
8 Commission as far as we are concerned. My friend may
9 may be going to put it there, but that is a different
10 matter.

11 MR. FRAWLEY: Q. But 10.4 is comprised of
12 the $6\frac{1}{2}$ per cent, which is your cost of money, your
13 return on investment, whatever you want to call it,
14 plus the 3.9 per cent for income tax?

15 MR. SINCLAIR: I must object to learned
16 counsel equating cost of money with return on investment
17 when the witness has already told him the very great
18 distinction between the two matters.

19 THE CHAIRMAN: That is the arithmetic used.

20 MR. SINCLAIR: No, sir, it is not a question
21 of arithmetic.

22 THE CHAIRMAN: Six and a half plus the
23 income tax.

24 MR. SINCLAIR: No, Mr Chairman. Mr. Frawley
25 is equating cost of money and returns.

26 THE CHAIRMAN: Oh, well, leave that out.

27 MR. SINCLAIR: That is what I am suggesting
28 he should do.

29 MR. FRAWLEY: With great respect, Mr. Chairman,
30 I certainly don't think it should be left out. I don't



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know whether I shall have to call witnesses, but I want the record to show I am not leaving it out.

THE CHAIRMAN: What I meant by leaving it out was what was meant by Mr. Frawley in the 6½ per cent as to what you should earn. He has not stressed that, I understand.

MR. SINCLAIR: Mr. Frawley has.

THE CHAIRMAN: This is not a rate base case.

MR. SINCLAIR: Correct, sir.

MR. FRAWLEY: This is an attempt to analyse these few figures given at the top of page 74, which is apparently all of the figures we are going to get to enable us to know why the Canadian Pacific say there is a burden of 50.5 million, and because there are so few figures I have had competent people analyse them, and it is pursuant to those instructions I am asking the questions, and I object very seriously to leaving anything out because my friend Mr. Sinclair says it should be left out.

MR. SINCLAIR: All I did was to point out that my friend in putting the questions was equating things that cannot be equated, and he had an answer from the witness that marked the distinction. If he wants to call a witness who will say this is a matter the Commission should consider, then let him bring the witness.

THE CHAIRMAN: It is a question of use of language.

MR. FRAWLEY: Q. Mr. Emerson, call the



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6½ per cent what you like -- return on investment,
or cost of money ---

A. I will take the latter.

Q. I put it to you that your 10.4 consists
of 6.5 for return on investment or cost of money . . .

A. Cost of money.

Q. . . . plus 3.9 for income tax, which
you have to have because the Minister of Finance
demands it.

MR. SINCLAIR: I object to counsel putting
questions of "either or".

MR. FRAWLEY: Well, Mr. Chairman, I might
just as well abandon my cross-examination. I can't
cross-examine both Mr. Emerson and Mr. Sinclair, and
I have no intention of cross-examining Mr. Sinclair.
I have quite an undertaking here and I should be
allowed to pursue it unless I am acting very improperly.

THE CHAIRMAN: You have asked your question.

MR. FRAWLEY: Q. I put it to you that your
10.4 per cent that you are using as cost of money on
investment to be perpetuated, your 8.4 million --
that 10.4 consists of 6½ per cent ---

A. Cost of money.

Q. Cost of money plus 3.9 per cent for
income tax?

A. I think that is correct, yes. By
the way, before we pass that point, Mr. Frawley, there
was information supplied to Mr. Banks in connection
with these figures. You have more than the figures



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here at the top of page 74.

Q. Mr. Emerson, still looking at page 74, I ask you why you did not direct your study to show what the amount was by which passenger revenues fell short of meeting some desired standard of earnings?

A. You asked me that?

Q. Yes, why did you not do that instead of coming out with what you call a burden?

MR. SINCLAIR: Mr. Chairman, the Commission will recall that on direction of the Commission we were required to advise the Commission what was the burden, if there was a burden, on passenger service, and this is what we have done.

MR. FRAWLEY: I challenge my friend that the Commission ever gave him any ruling to not tell the Commission how far short the passenger revenues fell of what those passenger revenues should earn.

MR. SINCLAIR: The record speaks: it asked for the deficit, and burden on freight -- "freight carries the load" was the phrase used by the Chairman, and pursuant to those instructions, on what load was freight carrying, we developed the figure.

MR. FRAWLEY: Well, let us see what our friends at the Canadian National did. Canadian National simply produced a document called Exhibit 182 to the Commission, Mr. Emerson, and they told the Commission they had an operating deficit of just about \$38 million -- 37.9 -- in 1959, and at that they exclude commuter train operations. But, even



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2 excluding that -- which I challenge -- in any event
3 they show they had an operating deficit?

4 A. Yes, but in the first place, of
5 course, commuter operations are excluded from these
6 figures at the top of page 74 as well. So, in
7 that respect they are like and like.

8 Q. Yes.

9 A. And, of course, on the Canadian National
10 figures, Exhibit 182, Canadian National in the year
11 1959 had no income tax liabilities.

12 Q. That is true, but the Canadian National
13 Railways simply showed they have a \$38 million deficit
14 in 1959 running its passenger business?

15 A. Yes.

16 Q. I put it to you that it would have been
17 very interesting to have from the Canadian Pacific
18 what its deficit was, and to know how far the
19 passenger revenues fell below what you think it should
20 earn, as you did in the case of the Crow rates. That
21 is what you did there. Why didn't you do the same
22 thing?

23 A. Well, I think the circumstances are
24 different.

25 Q. I just put it to you that you set
26 out to show how far short of meeting a desired stan-
27 dard of earnings the Crow rates were, did you not?

28 A. I think that is probably a fair
29 statement.

30 Q. Well, why did you not do the same



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2 thing with regard to passenger so that people would
3 know how far short of meeting the proper passenger
4 costs -- how far short your revenues were?

5 A. Well, if it was realistic to consider
6 the possibility of closing this gap, as it were, by an
7 increase in revenue, that might be a very pertinent
8 figure; but, in the present circumstances I don't
9 believe it is.

10 Q. It certainly would have been more than
11 \$15 million if you endeavoured to work out a deficit
12 on that basis, just indicating how far short your
13 revenues were from your expenditures?

14 A. Yes, I think I would agree it would be
15 more than \$15 million, but again income tax is a fact
16 of life and it is reflected in the figures.

17 Q. On page 55 you make this statement:

18 "If, of course, just and reasonable remunera-
19 tion for the handling of export grain in
20 western Canada is not to be received by
21 the railway a very large mileage, something
22 over 2,500 miles, of branch lines in the
23 prairies would still of necessity be can-
24 didates for abandonment."

25 I would like to ask you whether or not just and
26 reasonable remuneration for the handling of export
27 grain in western Canada includes cost of money at 10
28 per cent?

29 MR. SINCLAIR: The whole figures on the cost
30 studies are before the Commission and the calculations



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in respect of cost of money are included in them.

THE CHAIRMAN: Is that the figure?

MR. SINCLAIR: 10.38.

MR. FRAWLEY: Q. The answer is that it does include that?

A. I think that is right.

Q. Well, that is all. Now, if that is so, what other types of traffic pay that kind of return on investment?

MR. SINCLAIR: I object, Mr. Chairman. The question is not one as to whether it is a return on investment. The question is one as to the cost of money applicable to the investment used in providing the service. I say the question put by my friend is irrelevant.

MR. FRAWLEY: I will put the question again, and I do not think the question is at all irrelevant.

Q. You say you want grain to earn 10.4 per cent for cost of money, and I asked you what other types of traffic pay that return on investment on the Canadian Pacific?

A. I can't give you the answer to that, but I will agree with you -- I will concede to you, at least, that some traffic returns to Canadian Pacific 10.4 per cent cost of money, some perhaps more, and some less; but the distinction here is the fact that grain is a very large portion of the traffic which we handle, and for that reason grain cannot in the nature of things be realistically treated at a



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2 rate that is appreciably different from its full costs.

3 Q. The fact is that passenger does not
4 pay you 10.4 per cent return on investment or cost
5 of money?

6 A. No, sir.

7 Q. And neither does the movement of many
8 other types of traffic pay you 10.4 per cent return for
9 cost of money?

10 A. Some other types, quite right.

11 Q. A great many of your low agreed charges
12 do not pay 10.4 per cent?

13 A. I don't agree that agreed charges are
14 necessarily low.

15 Q. That is not my question. I say a
16 great many of your long haul agreed charges do not
17 pay 10.4 per cent return?

18 A. Not 10.4 per cent return. Let us get
19 away from that and put it in its proper context, which
20 is, earning 10.4 per cent cost of money.

21 Q. Well, as far as putting it in its proper
22 context or not is concerned, with great respect, I
23 put it in its proper context because you want grain,
24 this commodity that is battling its way into the
25 markets of the world, you want it to pay 10.4 per
26 cent return on cost of money?

27 A. We think the price for handling export
28 grain in order to be realistic should bear its full
29 costs because it is a very large and heavy movement.
30 It represents a very substantial portion of the total.



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2 service Canadian Pacific performs.

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4 Q. But you are willing to move other
5 commodities at just a sliver over your bare out of
6 pocket -- because the law requires that -- you are
7 willing to move other commodities for just a little
8 bit over bare out of pocket for the purposes of --
9 well, to keep your rolling stock rolling and to keep
10 Canadian factories in eastern Canada fully employed
11 and other such laudable reasons; that is true,
12 isn't it?

13 A. I would not agree with it the way
14 you have expressed it. We don't use out of pocket
15 costs. We use variable costs. Secondly, you
16 suggested it should be just a little bit over: we
17 certainly talk of something more than that. We
18 want it substantially over. Thirdly, the reason
19 for such rates is competition and is not in the
20 sense of being the benefactor to keep the factories
21 of eastern Canada humming or that type of reason.

22 Q. You say I said it should be a little
23 over: I am saying that the economic fact is that
24 in many instances it is just a little bit over?

25 A. I think not.

26 Q. You think it is not?

27 A. Not just a little bit over.

28 Q. When I show you a rate that is return-
29 ing you six-tenths of a cent per ton mile, do you think
30 that is earning 10.4 per cent?



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A. It depends on the circumstances.--

MR. SINCLAIR: I am sorry, Mr. Frawley,
but that record, if you look at it -- and you were
not here when I drew the attention of the Commission
to the fact that you slipped a decimal point, and
instead of returning six-tenths of a cent, that movement
of propane out of Edmonton to Waterways was returning
six cents a ton mile; and not twelve cents, but \$1.20.

---Short recess.



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THE CHAIRMAN: Order, please. Mr. Frawley?

MR. FRAWLEY: Q. Mr. Emerson, just speaking of passenger matters, you of course pay no income tax, but if your passenger revenues were segregated or could be segregated out you would not expect you would have to pay any income tax on your passenger operation?

A. Not as at present, Mr. Frawley, because the passenger operations themselves would not be in a taxable position. But, of course, income tax is not computed that way.

Q. You say what?

A. Income tax is not computed that way.

Q. What I mean to say -- that is true, income tax is not computed that way -- your operations are not divided up and income tax computed on your passenger or grain or on your agreed charges -- it is just all in one. The point I am really making is that the Canadian National, we have often had said to us, do not pay income tax except under some rather special circumstances?

A. Which have not arisen, I think.

Q. But the Canadian Pacific Railway, with respect to its passenger part, are just in the same situation as the Canadian National?

A. Well, I do not think you can break it out just that way.

Q. Can you not say they are both in a deficit position -- the Canadian National passenger business and your passenger business?



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2 A. Yes, you can say neither one of them
3 would result in an income tax liability.

4 Q. That is true, but notwithstanding that,
5 you want this Commission to take it that, from your
6 page 74, the burden on freight in 1958 was only 15
7 million 5, whereas with Canadian National it was about
8 \$38 million dollars in 1959.

9 Now, are you now seeking to leave that kind
10 of comparison with the Commission? Are you, sir?

11 A. Would you say that again?

12 Q. I say the Canadian National have told
13 the Board that they lost \$38 million -- 37.9 million
14 dollars in 1959 -- and there were no ifs or buts about
15 it. There it is -- 37.9 million dollars lost in
16 passenger, excluding commuter. You are not endeavouring
17 to say that the Canadian Pacific comparable figure
18 is 15 million 5?

19 A. I think they are comparable, yes.

20 Q. You say, whereas the Canadian Pacific
21 lost 38 million, you people only lost 15 million 5?

22 A. No, I say that is the result of
23 passenger as reflected in net income.

24 Q. I am asking you what was the Canadian
25 Pacific passenger deficit in 1958. Now, are you
26 telling me, "Yes, our passenger deficit was 15 million
27 5 in 1958"?

28 A. That is the effect of it on the net
29 income of the company after taxes.

30 Q. Then, I put it to you that all you



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2 are giving this Commission are the one half dozen
3 lines on page 74 to substantiate that position?

4 A. Well, those are the figures. That is
5 the basic result. Upon request, more figures have
6 been supplied to Mr. Banks.

7 Q. I may as well make the position of
8 Alberta very clear, Mr. Chairman. I now ask the
9 witness to put on the record any schedules similar
10 to those presented for grain costs which underlie the
11 development of the passenger service costs.

12 MR. SINCLAIR: Well, Mr. Chairman, the
13 consultants of the province of Alberta were given
14 this precis --- given to my friend to give to his
15 consultants, and no doubt he put it to them
16 immediately -- on September 14 last. Certain requests
17 for particulars were made to us. These were complied
18 with. The working papers behind these have been
19 available to the consultants of the province of Alberta,
20 and I think that is as far as it is reasonable to
21 expect any person to go.

22 I may say this, now that my friend has
23 raised it, notwithstanding the fact that Canadian
24 Pacific have asked the consultants for certain basic
25 data just to look at -- not to copy it, except to
26 copy down in their offices -- of certain figures that
27 were advanced by them, we are still waiting for some
28 of that data because the other consultants said they
29 have been too busy. But we have made this available
30 to them, and I think, as I say, that is as far as we



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can reasonably be expected to go.

THE CHAIRMAN: We are in the dark as a Commission ---

MR. FRAWLEY: I am not putting it on the ground that my friend, Mr. Sinclair, is putting it at all.

MR. SINCLAIR: I do not think, with all due respect, sir, that the Commission is in the dark at all, and I am very sorry, sir, to have that suggested because the Canadian Pacific Railway Company in answering each request made has sent a copy to the staff of the Commission, and not only that, sir, the Canadian Pacific right from over one year ago has said to this Commission that its technical staff was welcome into our company's books at all times, and they have been there and have looked at them. So when you say the Commission is in the dark, sir, I am surprised. I do not think they are in the dark, and certainly if they are in the dark it is no fault of Canadian Pacific.

THE CHAIRMAN: In the terms of Mr. Frawley's question, we were, but if what you say is true, we are not.

MR. FRAWLEY: Well, if my friend resents that, he is going to resent much more what I am going to say now. I put it to the Commission that the Commission is being asked to recommend to the Governor General in Council that the burden of passenger on freight in the Canadian Pacific



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2 in the year 1958 was 15 million 5, when we had
3 exhibit 182 -- at least my friend could sit down while
4 I am addressing the Commission, I imagine.

5 MR. SINCLAIR: I am merely going to go over
6 to take a look at exhibit 182 which I gave to the
7 witness.

8 MR. FRAWLEY: I put it to the Commission
9 that these figures on page 84 should be rejected out
10 of hand before the Commission reports to the Governor
11 General in Council that the burden of passenger train
12 service on freight in 1958 was 15 million 5, when
13 we have on the Canadian National a figure that they
14 lost \$38 million dollars. All I am saying, sir, is
15 that I challenge the sufficiency of these figures.

16 THE CHAIRMAN: We have heard you, Mr.
17 Frawley.

18 MR. SINCLAIR: Well, Mr. Chairman, I must
19 say this, now that he has brought up exhibit 182 of
20 the Canadian National Railways. I do not know whether
21 my friend has really looked at these figures, but in
22 any event there are substantial differences in exhibit
23 182 and in the figures for Canadian Pacific. One,
24 alone, I bring to your attention and I bring it to
25 the attention of my friend: Canadian National, if
26 he had read their submission, make this clear, that
27 they have not charged depreciation into the
28 compilation of their figure. The depreciation is
29 charged in the Canadian Pacific figure.

30 The figures of Canadian Pacific are set out



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2 in the way they are set out as showing the application
3 of the policies of Canadian Pacific in regard to
4 passenger service. Now, my friend may say what he
5 likes about this, but we say that having the policy
6 of the company on passenger explained in detail to
7 this Commission, we have applied appropriate costing
8 techniques to the development of this figure. The
9 burden upon freight in the year for which the figure
10 is set forth is 15 million 5 -- call it 15 million
11 6, to round it out -- and the witness that is now on
12 the stand has said that no special study has been made
13 for 1959, but that the amount involved would be less.
14 That is what he said yesterday.

15 THE CHAIRMAN: Mr. Sinclair, we will consider
16 these figures in the light of the copy of the material
17 which you say you filed with us and which I accept,
18 and which Mr. Frawley wishes to refer to. We will
19 consider all these.

20 MR. SINCLAIR: And, of course, sir, this
21 is subject to argument at a later date, if my friend
22 wants to do it. This is surely not the time for this.

23 MR. FRAWLEY: Then, Mr. Chairman, I am
24 now discussing these figures with Mr. Emerson, and
25 may I make my position very clear. Until the Canadian
26 Pacific explains to this Commission and to other
27 people the reasons behind the conclusion that they
28 only lost 15 million 5, and until they explain it
29 in such detail as they explained the other deficit
30 traffic -- namely, grain -- then, I challenge them,



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2 and I say that the Commission should not make a
3 recommendation to the Governor General in Council
4 that these represent satisfactory figures; that is
5 all.

6 THE CHAIRMAN: You have made your position
7 very clear, Mr. Frawley.

8 THE WITNESS: I think at this point I
9 should, Mr. Frawley, make clear also that in the
10 year 1958 the burden resulting from passenger train
11 operations did not fall on the freight shipper.

12 MR. FRAWLEY: Q. What are you saying? Are
13 you saying it fell on the taxpayers?

14 A. It fell on the shareholders of the
15 company.

16 Q. Going back for a moment to the 10.4
17 which was the cost of money ---

18 A. Yes, sir.

19 Q. For passenger.

20 A. Yes, sir.

21 Q. This deficit traffic, passenger, 10.4
22 was the cost of money. To whom was that cost of
23 money paid?

24 A. Well, the cost of money is what the
25 cost is to the company of providing the funds. It
26 is the same, in this sense, as depreciation. If it
27 is not earned, it is not paid.

28 Q. I know, but I just wondered if you
29 could tell us whether or not this represents external
30 borrowing?



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A. It represents the sum total of external borrowing in both debt and equity securities.

Q. Now, you referred to passenger here, and if you will excuse me for not looking up the reference, I think you will agree with me you referred to passenger as incremental traffic. I think that is true?

A. I think that is ---

Q. I think that is the expression used?

A. Yes, it is not our main business.

Q. And you regard export grain as basic to the plan?

A. Yes, sir.

Q. Would you mind looking at a few figures for me in that regard?

A. Yes, sir.

Q. Would you look at page -- transcript page 2455, volume 17 ---

MR. SINCLAIR: We have not got that volume here.

MR. FRAWLEY: Q. Well, I will just show it to you, Mr. Emerson. It is Mr. Stenason's direct examination, and Mr. Sinclair is just asking him to refer to his written submission, I take it, and he says:

"Q. Would you go on, please?

"A. (b) work done -- movement of this traffic resulted in 11,768,470,000 gross ton miles."



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A. Yes.

Q. That would be probably substantiated -- if the transcript is not available, I think it can be substantiated from Mr. Stenason's material?

A. I take it he was referring to the movement of grain at statutory and related rates.

Q. Yes, I think he was. I think that was the whole subject of the discussion. I put this to you as a piece of information supplied by Mr. Stenason to Mr. Banks on October 4, 1960. I put it to you that the gross ton miles, passenger, comparable to the 11 billion 7 that I have just given you was 10 billion 2 -- actually, 10 billion 222 million 674 thousand. Can you check that figure?

A. No, I do not have the figures to enable me to check that figure, Mr. Frawley.

Q. Well, subject to check -- perhaps it could be checked?

MR. SINCLAIR: I wonder where the source is.

MR. FRAWLEY: Q. Yes, a letter from Mr. Stenason to Mr. Banks dated October 4, 1960.

A. I have a copy, but I do not see those figures in it.

Q. The file is grain 1-12. That is what it is.

A. Yes, I have a copy of the letter.

Q. You say you cannot check it from that?

MR. SINCLAIR: He has the letter to which



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you are referring, Mr. Frawley.

MR. FRAWLEY: Q. You cannot check it from that?

A. No, sir, it is not in the letter.

Q. Well, I will have it checked and ask you about it again.

Getting to cost figures, the variable cost of grain, I put it to you -- and if you will look at transcript page 11655, volume 66 ---

MR. SINCLAIR: Would you show it to him, please?

MR. FRAWLEY: Q. Volume 66, page 11655. You have not got that either?

A. No, sir.

Q. Well, there Mr. Sinclair is discussing -- I think he is discussing the effect of the famous exhibit 132.

I think, Mr. Chairman, that this speaks for itself. It shows the revenues as given by Mr. Stenason at 35 million 3 odd as in the transcript, which have been revised to 35 million 400,000 dollars?

A. Yes, I see that.

Q. Well, that is the first figure I want to show you. And, then, the variable cost. It was the variable cost I wanted to show you which is right next.

The next is variable cost which was \$52 million 300,000 odd in the transcript, and as revised, 51 million 7?



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A. Yes.

Q. That is right. That is what I wanted to give you.

Now, that is for grain and passenger and is in your own brief at page 74 that we have been looking at, and that is 99,806,734?

A. Excuse me, Mr. Frawley, I missed that.

Q. I say on page 74 ---

A. Yes?

Q. -- the figure for variable costs, passenger, is \$99,806,734?

A. Yes, I see that figure.

Q. Now then, I have only one more set of figures to give you, and that is the grain revenue which is to be found at transcript page 11655, volume 66, and I gave you that revenue figure first, Mr. Emerson, and you will find that it is revised, \$35,400,000?

A. I recall that.

Q. And, then, the passenger revenue figure which is also on page 74 is \$70,454,260?

A. Yes.

Q. Now, notwithstanding those figures you would take the position that the passenger is just incremental whereas grain is basic to the plan?

A. Yes, I think so.



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Q. Now, I told you I would check that figure that you could not accept. Do you show passenger costs as including any share of overhead?

A. What do you mean by overhead, Mr. Frawley?

Q. Well, you showed it as including a share of -- you include a share of overhead in the cost of grain, the export of grain.

A. Well, again I wondered what you had in mind as to overhead; everything above variable costs, is that it?

Q. The difference between variable cost and fully distributed cost, that is overhead and I am just wondering what share?

A. No, the passenger costing was done on a variable cost basis.

Q. And grain was done, I suppose, both ways, on variable and on ---

A. We supplied both figures, yes.

Q. But the revenue you want is the revenue which matches full cost?

A. And for the reason we have explained.

Q. But there again there is a marked distinction between the treatment of passenger and grain.

A. And again, the circumstances are very different.

Q. Now, I want to take you to page 54 and have you explain what you have done there. Now, this



1
2 study that is discussed on page 54, as I read it, it
3 is leading up to the statement that you make that you
4 have 850 miles of branch lines on Canadian Pacific
5 where the situation exists where the condition prevails,
6 the condition being set out in the opening words of
7 the first full paragraph. That is correct, is it?

8 A. Yes. I was trying to find the reference
9 to the 850 miles.

10 Q. On page 53, the page before the second
11 paragraph where you say:

12 "... Some 850 miles of branch line with an
13 average density less than 25,000 net ton
14 miles..."

15 A. Yes.

16 Q. Now, I would like to discuss with you
17 the formula by which you arrived at these results?

18 A. Yes.

19 Q. The first thing you took was a highway
20 cost of 8.35¢ per ton mile?

21 A. Yes.

22 Q. Now, you took that from the statement
23 made by Mr. Justice Manning in the Great Slave Lake
24 Railway Royal Commission?

25 A. Yes.

26 Q. At this stage I think it may be a little
27 helpful if I marked as exhibit 183 these two pages
28 which actually show how you arrived at the 25,000
29 miles because I take it that the figure on the first
30 page of 26,864 has been rounded off to 25,000?



1
2 --- EXHIBIT NO. 183:

3 Two pages headed Basis of
4 Calculation of the Revenue
5 Ton Mile per Mile of Line
6 at which Highway Operation
7 is more economical than
8 Railway Operation.

9 MR. SINCLAIR: This is one of the additional
10 documents asked for and supplied by the company and we
11 have not checked them. I thought the witness should
12 know that.

13 MR. FRAWLEY: Q. Yes, if you are making that
14 statement for the sake of the witness, I am very glad
15 that Mr. Emerson should know something that Mr. Stenason
16 recognized, I am sure, in an instant. You come out
17 with a figure that is the only thing that is puzzling
18 me -- it is hardly puzzling me -- you come out with a
19 figure of 26,864 and you are using for easy calculation,
20 I suppose, or just for approximations, this 25,000 net
21 ton miles?

22 A. Yes, I do not think you can look at that
23 calculation as being a sharp, precise type of result.

24 Q. First thing we have to look at is the
25 8.35¢ part per revenue ton mile?

26 A. Yes.

27 Q. Now, Mr. Emerson, I am so intrigued with
28 you taking that figure that I am wondering where you
29 got it. Did your traffic people give you that or your
30 cost research people give you that?

A. No, we looked at that in a number of
different contexts. The reference is in at the foot of



1
2 page 53 which is 18243 in the transcript and at the top
3 of page 18244.

4 Q. Speaking of that, just to interrupt you,
5 on the bottom of page 53 you have the reference to a
6 Board of Transport Commissioners recent case; have you
7 the citation noted in your margin?

8 A. I think I can give that to you.

9 Q. Well, do not take time to look for it
10 now if I can get later from Mr. Sinclair.

11 A. Yes, that would be the figures developed
12 and presented to the Board of Transport Commissioners
13 in June, 1960 at a hearing at Weyburn, Saskatchewan,
14 in connection with an application by Canadian Pacific
15 to abandon a portion of the Neptune sub-division west
16 of Estevan.

17 Q. The Board has decided that, have they,
18 or is it still pending?

19 A. No, it is still pending before the Board.

20 Q. Well, these are just some submissions
21 the Canadian Pacific made to the Board?

22 A. Evidence placed before the Board of
23 Transport Commissioners.

24 Q. I am sorry, you are not misleading
25 anybody at all, but I want to make it clear these are
26 just some figures you placed before the Board and as
27 of this moment the Board has not accepted those as
28 being valid.

29 A. They are subject to test before the
30 Board. The Board has not set down a decision on this



1
2 application.

3 Q. Well, we cannot say anything for or
4 against it then?

5 A. That did not apply to the submission
6 made to the Manning Commission.

7 Q. No. By the way, that 8.1¢ you say was
8 for 20 miles but you felt that if you took 8.35¢ that
9 would be a valid trucking cost?

10 A. For a situation such as this, I think
11 so.

12 Q. Well, you know where Manning is?

13 A. Sir?

14 Q. Do you know where Manning is -- Manning
15 to Grimshaw?

16 A. Yes.

17 Q. I think those were the points that were
18 taken?

19 A. Yes.

20 Q. Do you know where Manning is?

21 A. Well, very roughly, about 60 miles north
22 of Grimshaw.

23 Q. Do you know what township it is in?

24 A. No, but I could find out.

25 Q. Well, it is in township 92.

26 A. Yes.

27 Q. And just by way of contrast, Calgary is
28 in township 25, Edmonton is township 52 and this is
29 township 92.

30 A. That is in the northern part of Alberta.



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Q. In the northern part of Alberta?

A. Yes.

Q. It is in the northern, northern, northern part of Alberta, is it not? Well, you know the province of Alberta does pretty well by its roads but do you know what kind of road they have there? What kind would you expect, without looking at anything, what kind of road would you expect?

A. Well, that has been subject to a great deal of improvement up there recently, there has been a good deal of money spent on that and it is probably a very good road.

Q. If you are saying that as a compliment to my government, all right, but it is just a gravel road as shown on the 1960 road map.

A. As of this moment that may be.

Q. Yes, as of this moment and as of quite a few moments in the future. And I suggest many of the roads on the prairies which are not part of the provincial highway system are of the same calibre.

A. And diesel fuel would be Edmonton plus freight.

A. Well, diesel fuel at Edmonton is pretty close to the oil fields, it is closer than most of them.

Q. I say diesel fuel up in that country would be Edmonton plus freight.

A. Yes, I do not think that is any different from any where else.



1
2 Q. Yes, but Edmonton plus freight is
3 something that steps up the price of the fuel oil to
4 the trucker by ~~a very desirable and appreciable amount~~.

5 A. I doubt that it is very significant in
6 that case.

7 Q. You doubt it?

8 A. Yes.

9 Q. Do you think he is paying any more, a
10 trucker at Grimshaw or Manning is paying any more than
11 the trucker at Matawaschan.

12 A. Well, he would be paying a little more
13 than he is at Matawaschan.

14 Q. All right. In any event, you went
15 abroad and found a movement from Manning to Grimshaw
16 and put that down taking it from Mr. Justice Manning's
17 statement that it would cost 15¢ a bushel and you said,
18 "Fine, we will start at that 8.35¢ as the highway
19 operating cost per revenue ton mile"?

20 A. Yes, we looked at that and at other
21 figures which seemed to bear it out.

22 Q. And that was to be applied from the
23 overall system?

24 A. I would not say applied -- you say
25 applied?

26 Q. Applied, yes.

27 A. That is not quite the right word,
28 perhaps, but it is a realistic figure for an appraisal
29 such as this.

30 Q. Well, it was realistic enough if you



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used it in this statement to make up the number of revenue ton miles to meet variable expenses?

A. To determine the point at which it may be more economic to abandon a line of railway and handle traffic by truck.

Q. You did not limit it to the Northern Alberta railway?

A. No, it is an overall approximation.

Q. And you did not limit it to the northern Alberta Railway, the old A and GW up to Fort McMurray, you did not limit it to anything like that?

A. No.

Q. You just applied it broadly to the whole of western Canada?

A. Oh, well, it is a rough criterion, if you will. The question of the abandoning or retention of each individual line would be a matter of separate study but this was an overall criterion to give you some sort of guidepost or bench mark, as has been referred to in these proceedings.

Q. You say 8.5¢, a little more than 8 $\frac{1}{2}$ ¢ per ton mile is a good working figure to ascertain highway costs?

A. For this type of movement, yes, I think so.

Q. For this type of movement, what do you mean by that? I thought you were trying to find out the number of branch lines that you have that were -- the number of branch lines that you had where



1
2 "fewer of the nation's economic resources are required
3 to move traffic by highway than by railway."

4 A. Yes, it was particularly in the context
5 of grain.

6 Q. Oh, you do not say grain, you simply
7 say the number of cases where "fewer of the nation's
8 economic resources are required to move traffic by
9 highway than by railway". You will surely accept
10 that, that is the economic application you made of
11 the 8.35¢ per ton mile?

12 A. Yes.

13 Q. Now, I suggest also, too, talking
14 about something else when you are talking about a
15 representative trucking you take it as a representative
16 trucking figure?

17 A. In this context, yes.

18 Q. That is the context and there are the
19 opening words in the first full paragraph on page 54.
20 Now, I looked up something else which I think gives a
21 different story and this is still in the Grimshaw
22 area, in Grimshaw to Manning. You know, you only have
23 to look at the map and it will indicate that a great
24 deal of land up there has not even seen the surveyors
25 instruments?

26 A. Oh, I know a lot of that country has
27 not been opened up.

28 Q. Now, on the other hand, the Canadian
29 Railways made an agreed charge No. 761 to move fuel
30 oil from various places from the refineries in western



1
2 Canada to various destinations and one of them was
3 from East Edmonton to Grimshaw and from East Edmonton
4 to Grimshaw you made a rate of 51¢ and that rate for
5 342.1 miles is 2.97¢ per ton mile. Now, you made that
6 rate.

7 MR. SINCLAIR: What minimum?

8 MR. FRAWLEY: There is the rate, Mr. Sinclair,
9 51¢ to move fuel oil from the refineries in East
10 Edmonton to Grimshaw.

11 MR. SINCLAIR: All I asked was, what minimum?

12 MR. FRAWLEY: You mean minimum loading?

13 MR. SINCLAIR: Yes, weight.

14 MR. FRAWLEY: Look it up and find out.

15 MR. SINCLAIR: Of course, the witness has
16 to have this to understand the question.

17 MR. FRAWLEY: Q. I am putting it to you
18 that it is 2.97¢ per ton mile and for my purposes you
19 can multiply it by two but to take it for the moment
20 at 2.97¢ per ton mile. Now, that rate was made to
21 meet truck competition, that is what this agreed
22 charge 761 was made for. Now, you surely were not
23 establishing a rate to meet any, reducing your revenue
24 to 2.97¢ per ton mile to meet truck competition that
25 was costing that trucker 8.35¢ per ton mile.

26 MR. SINCLAIR: Of course, I think counsel,
27 to be fair to the witness, might also tell him ---

28 MR. FRAWLEY: Oh well, it is already ---

29 MR. SINCLAIR: To tell him -- I think it is
30 pertinent if you want the Commission to see the agreed



1
2 charge, with all due respect, I would like to say to
3 this Commission ---

4 THE CHAIRMAN: What is at issue at the
5 moment?

6 MR. SINCLAIR: It is all very well to put
7 to Mr. Emerson an agreed charge rate without a minimum,
8 to say for truck competition. He has not said what
9 kind of truck competition and it may well have been
10 a rate put into effect to meet trucks owned by certain
11 refineries who have not only a cost but take into
12 consideration too an advertising value. These are all
13 things that are in the rate that have to be looked at.

14 THE CHAIRMAN: He can take care of himself
15 for a while.

16 MR. SINCLAIR: I am not suggesting that he
17 cannot and I must say I think I realize that he can
18 take care of himself as well as anybody and I think
19 my friend should give him all the facts before he puts
20 the question to him.

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MR. FRAWLEY: Q. I will do better than that. For the sake of taking care of all these imponderables, I will double it, and about half of the eight cents you took from Manning to Grimshaw ---

A. Well, the length of haul is very different. Looking at my map I would judge the distance from Edmonton to Grimshaw would be about 323 miles.

Q. Yes, now, the length of haul is different. You used -- your economic application was very general, and I will read it again, at page 54: "Using average total branch line operating costs ..." -- and I will come to this in a minute -- "... it is only where density is less than 25,000 ton miles per mile of road that fewer of the nation's economic resources are required to move traffic by highway than by railways." To find out this number of miles of road you took 8.35¢ as a representative average, good, honest trucking revenue per ton mile, did you not?

A. In this context, yes?

Q. That is right, that is the context that I just read. Now, you say it is a longer haul: of course it is a longer haul, and why you took a 60 mile haul I will never know, but that is what you took.

MR. SINCLAIR: Because he says it is a branch line of average length -- 50 miles; if you read it, you will see.



1
2 THE WITNESS: And it is not very different
3 from the figures placed before the Board of Transport
4 Commissioners at 8.1¢ for a 20 mile haul.

5 Q. I am still staying in the Grimshaw
6 country because that is where you took me. I simply
7 say you are now moving fuel oil from the refineries in
8 East Edmonton -- I suppose you are; I am told you just
9 chased all fuel oil off the highways; you made your
10 point. Whatever you did to the trucking industry, I
11 do not know, but Mr. Hume is here and could probably
12 tell us. But, you went in with a 51¢ rate. That rate
13 is not under section 334 of the Railway Act. It is
14 expected to conform to the economic facts of your
15 competition, competition that you had to meet, and you
16 were meeting, by agreed charge 761 which was doubtless
17 carefully analysed, and still you made a rate of 51¢,
18 and I say that was the kind of trucking rate you should
19 have had in mind; you should have had a trucking cost
20 of somewhere around 3¢ a ton mile instead of 8.35. It
21 is pretty obvious what my point is, Mr. Emerson.

22 A. No, I do not think I would agree to the
23 rate of 3¢ a ton mile on general traffic replacing branch
24 lines on the prairies.

25 Q. All right. I guess we will let it stay
26 there. So, you march on to your result with 8.35 as your
27 highway cost?

28 A. I should emphasize, though, this is only
29 used as a rough criterion or a guidepost to indicate
30 whether a branch line is in the situation where it should



1
2 be looked at and subject to a detailed study, or whether
3 it is not.

4 Q. I certainly will agree it is rough. Why
5 did you not take the Manning to Grimshaw, Edmonton to
6 Wataskawan, Calgary to Coronation, Edmonton to Camrose,
7 Red Deer to Rocky Mountain House, and make some sort of
8 weighted average? Why take the highest thing in the
9 book? That is all.

10 A. That was not the highest in the book.

11 Q. No.

12 A. Oh, no.

13 Q. What is the highest?

14 A. I am sure I cannot say as to that, but
15 at another hearing before the Board of Transport
16 Commissioners for an abandonment of a portion of the
17 Rapid City sub-division some figures were submitted by
18 a farmer which indicated a cost of 11.2¢ per ton mile.

19 COMMISSIONER MANN: What kind of vehicle was
20 he using, Mr. Emerson?

21 THE WITNESS: It was a one ton truck, but he
22 said it would carry about three tons, if I remember it.

23 THE CHAIRMAN: That was his own estimate.

24 MR. FRAWLEY: Q. A one ton truck operation
25 from where to where?

26 MR. SINCLAIR: A three ton load.

27 MR. FRAWLEY: Q. A one ton truck with a three
28 ton load?

29 A. 2.43 tons, yes. Trucks are commonly
30 overloaded.



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2 Q. That is because he is a farmer and he
3 could get away with it -- is that the idea?
4 A. Yes, a load of 2.43 tons; 3,000 bushels.
5 Q. A one-ton truck and he got 2.4 tons, and
6 he came out with a cost of 11¢?
7 A. Excluding wages.
8 THE CHAIRMAN: That was his estimate?
9 THE WITNESS: Yes, sir.
10 MR. FRAWLEY: Q. Why did you not take that?
11 That would have got you there faster?
12 A. As I say, we did not take the highest
13 one in the book. That was your suggestion.
14 Q. You had a higher one: you had the one-
15 ton truck.
16 A. But we did not take that.
17 Q. And this is grain again?
18 A. Yes.
19 Q. But this is not grain at page 54. Let
20 me remind you again, you are just talking about your
21 density. Now, the next thing is, using exhibit 183
22 because it makes it very handy, you use the figure of
23 2.33¢ a ton mile as your average branch line operating
24 costs?
25 A. Yes.
26 Q. And you exclude station and building
27 costs?
28 A. Yes, because they were excluded in
29 comparative truck costs as footnoted on the second
30 sheet of exhibit 183.



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Q. Of course, you do not know whether they were excluded in the 15¢ a bushel from Manning to Grimshaw?

A. Well, I think in the nature of things they had to be, and certainly in the other instance which I gave you in respect of the Neptune sub-division hearing they were excluded.

Q. You certainly did not have much to go on. This is what Mr. Justice Manning says at page 14 of his report:

"The town of Manning is 60 miles north of Grimshaw. More grain is grown in this district than in any other district north of Grimshaw. It costs 15¢ per bushel to ship this grain by truck to Grimshaw and a further 26¢ per bushel to ship it by railway to Vancouver, for a total shipping cost of 41¢ per bushel."

A. Yes.

Q. That is all you have to go on, and you assumed there were no billing costs in there?

A. The billing would certainly take place at the rail head and not at the town of Manning. I think it is obvious.

Q. You came to the conclusion there were no station or building costs in there, and you took it away from the 233, although it really should be added in when you are getting average branch line operating costs?

A. Not for this purpose.



- 1
- 2 Q. Yes, quite so; for any other purpose
- 3 they should be there?
- 4 A. It depends on the purpose.
- 5 Q. And you say you took it off there, and
- 6 this note at the bottom of the second page on exhibit
- 7 183 is that station expenses and revenue have been
- 8 excluded because they were excluded in comparative truck
- 9 costs?
- 10 A. Yes.
- 11 Q. That was an assumption on your part. That
- 12 is a variable cost. You take 233 from 835 and you get
- 13 the 6.02¢ and you call that the difference, and that is
- 14 the figure which describes the higher costs of highway
- 15 service; that is right, is it not?
- 16 A. Yes, that is the difference in the cost
- 17 of rail service and highway service -- highway operating
- 18 costs.
- 19 Q. Yes. Just to take another figure, you
- 20 take a figure that appears at line 7 of exhibit 30
- 21 (revised). That is 132, I might add apropos of nothing
- 22 at all.
- 23 THE CHAIRMAN: Yes, we have heard about that.
- 24 MR. FRAWLEY: Q. You see that that is line
- 25 7; that is where you got \$1,617.20?
- 26 A. Yes, that is right.
- 27 Q. And you call that the size variable
- 28 expense per mile of rail line?
- 29 A. Yes.
- 30 Q. With those figures, the \$1,600 odd and



1
2 the \$1,602 that comes from the 8¢ from Manning to
3 Grimshaw, with those two figures you arrive at a figure
4 of approximately 25,000 revenue ton miles per mile of
5 track?

6 A. Per mile of road, yes.

7 Q. Now, I call to your attention that there
8 is nothing in there for cost of money variable with
9 miles of track?

10 A. No; I am informed it does not include
11 cost of money.

12 Q. And if you had included an allowance for
13 investment cost variable with miles of track, if you
14 look again at exhibit 70 while I am putting my next
15 question to you, if you had done that, if you had
16 included an item or an allowance for cost of money
17 variable with miles of track, then you would have gone
18 to line 8 of exhibit 70 (revised) and you would have
19 added in \$1,004.04 and you would have come up with the
20 figure which is line 9 of exhibit 70 (revised), \$2,621.24?

21 A. Well, that would have been the arithmetic
22 result. It would not have been appropriate to develop
23 the figure in that way for this kind of analysis.

24 Q. You say that there is not any cost of
25 money included there?

26 A. I say it is not included in the \$1,617.

27 Q. No, it certainly is not included in the
28 \$1,617, and you would have had to add \$1,004 to have
29 shown the cost of money? You are not denying there is
30 such a thing as cost of money variable with miles of



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track?

A. No, I am not denying that at all, but this is an analysis to ascertain at what point, as a very rough guidepost, it would be more economical to take up a branch line and handle the traffic by truck. At that point, when you come to that decision, the investment in the branch line is largely lost if the decision is to take it up. It is gone. It is sunk capital if you will, and for that purpose you do not need to include cost of money.

Q. In the grain study such a return was included, Mr. Emerson, for so-called solely related lines?

A. Under very different circumstances.

Q. I say, in the grain study that Mr. Stenason made such a return, such an item, was included for the so-called solely related lines?

A. Yes, because there we were looking at grain as being a continuing movement.

Q. Well, I will come back to that in a moment.

--- Luncheon Adjournment ---



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THE CHAIRMAN: Order, please. Mr. Frawley?

MR. FRAWLEY: Q. Mr. Emerson, this morning I called your attention to a letter from Mr. Sterason to Mr. Banks under date of October 4, 1960, and you were not able to identify the figure that I was putting to you from that letter. Do you recall that?

A. October 4 was the letter you gave me?

Q. Yes.

A. Yes.

Q. You see what I should have called your attention to, Mr. Emerson, was the attachment to that letter. There was a big attachment to that letter, and I am sorry, that is where I put you off.

A. I see. I perhaps do not have the attachment.

Q. If the attachment is not handy, I will just take it off and show it to you. Now, I was putting to you that the gross ton mile figure for passenger was 10,222,674,000 gross ton miles?

A. Yes, that is right.

Q. And that is all I want to bring to your attention.

A. Yes, I think that figure has been checked.

Q. Yes.

A. That figure is correct as representing the gross ton miles of all passenger train equipment whether in freight service or in passenger service. That is to say -- I am sorry, whether in freight trains or in passenger trains.



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Q. It is what you call thousands of gross ton miles, passenger, taken from the attachment to this letter of October 4, 1960?

A. Passenger equipment.

Q. Yes, I am only calling it what you call it "thousands of gross ton miles, passenger" the figure, 10,222,674,000.

A. Yes. I merely want you to understand that that is passenger equipment, not passenger service, not that there is a great difference between them.

Q. No, I would not appreciate the difference. I just see what I see. I know what I see on this document, and under the column is "output units passenger service," and then, across the page, "Thousands of gross ton miles, passenger, 10,222,674,000."

Now, let me just group these altogether so they will be in the one place in the record. Gross ton miles, grain: 11,768,470,000?

A. Yes.

Q. Gross ton miles, passenger, 10,222,674,000?

A. Yes.

Q. Variable cost, grain, \$51,700,000.

Variable cost, passenger, \$99,806,734.

Revenue grain \$35,400,000.

Revenue passenger \$70,454,260.

Now, have you seen all those figures grouped together like that?

MR. SINCLAIR: It is very hard for the



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witness to keep that many figures in his mind.

MR. FRAWLEY: Q. I went over them with him this morning. If you want to take another look at them, Mr. Emerson, here they are.

A. Yes.

Q. You have them in your mind's eye now?

A. Yes, I have an approximate picture.

Q. In the face of those figures, you still want to adhere to your description of passenger traffic as incremental and grain traffic as basic to the plan?

A. I think I should point out that the relationship of those figures, Mr. Frawley, shows that passenger service represents 14.7 per cent of total gross ton miles in the year 1958, and that grain represented 16.9 per cent in the same year (this being grain moving to export positions in western Canada under the statutory and related rates); that passenger revenue represented 12 per cent of total railway revenue; and that grain represented only 7.6 per cent. But that if the opposed increase had been in effect, then, grain would have represented 14.0 per cent and would therefore be in approximately the same relationship to revenues passenger.

Q. That is true, but as you find them now -- your relationship of revenue in the matter of passenger and your revenue relationship in the matter of grain are not so very different?

A. Oh, I think quite different, sir.

Q. Now, Mr. Emerson, I call your attention



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2 particularly to two figures, and that is what have
3 been known to the cost people as "output units".

4 A. Yes.

5 Q. And if you look at the output units
6 per passenger, they are 10,222,000,000 -- and I
7 will stop there -- gross ton miles, and for grain,
8 11,768,000,000.

9 Now, those two output units, to look at,
10 I put it to you that you cannot validly regard
11 passenger as incremental and grain, western grain
12 moving to export positions, as basic to the plan.

13 A. Well, that is my position, and I see
14 no reason to change it. Passenger service is
15 incremental or incidental, if you will, because
16 under today's conditions there are alternative
17 modes for transportation of passengers, which are
18 being used to an ever-increasing extent.

19 Q. And I think I put it to you, before
20 I leave this, that if you are asking this Commission
21 to make a recommendation to the Governor General in
22 Council that you need an income tax concession of
23 some \$35 million on your grain, but that passenger
24 is to be left entirely in your own hands, I challenge
25 you to submit figures for passenger deficit, which
26 will be comparable with the exhaustive study that
27 you have prepared on grain?

28 A. Well, the income tax exemption,
29 \$35 million, of course, is the gross figure. As I
30 recall it, the net cost was about half of that. But



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2 the distinction here very clearly is the fact that
3 passenger service is a problem which is in our hands,
4 which we are able to deal with subject to the regula-
5 tions of the Board, but which we are not restricted
6 nor prevented from dealing with. Grain is in quite
7 a different position. Grain is by statute, as you
8 know, the rates are prescribed. We are not in a
9 position to deal with that. Canadian Pacific is
10 not before this Commission asking it or, through it,
11 the Government or anybody else to do anything about
12 any problem that we have control over; that we can work
13 out in our own way. We are here, of course, in
14 respect of these matters which are out of our hands
15 and out of our control.

16 Q. You are content -- even on your own
17 quite insufficient figures, I may say -- but, accepting
18 them at page 74, you are content to put before the
19 Commission a figure of 15 million 5 as being the
20 passenger train service burden in 1958 on freight
21 and say to the Commission in the same breath, "Leave
22 that there; we will manage that"?

23 A. We say that is the result in 1958.
24 We are dealing with it; we are competent to deal with
25 it, and we will do it.

26 Q. In the meantime then --

27 A. Passenger service, of course, in this
28 context and the figures you have given me have to do
29 with passenger service throughout Canada. Grain,
30 and the figures on grain that we have been dealing with



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2 are, of course, grain in western Canada. So you
3 have it in a much more concentrated area, and in that
4 area, therefore, necessarily a much larger relationship
5 to the plan as a whole.

6 To go back to what we said earlier in these
7 proceedings, grain is basic to the plan in western
8 Canada.

9 Q. If the Parliament of Canada did give
10 you your \$35 million to bring up your grain rates to
11 where you think they should be, you might just as
12 well say they are giving you 15½ million of that to
13 look after your passenger deficit?

14 A. I would not think so.

15 Q. With great respect, Mr. Emerson, I
16 suggest that what you are suggesting -- not what you
17 are suggesting, what you are telling -- you are placing
18 before this Commission a figure. You say the goods --
19 never mind what you lost; I suggest you have not put it
20 on the proper basis at all -- you say, "We placed a
21 burden on passenger train service in 1958 of 15 million
22 5, but leave that with us; we are going to continue
23 to bear that; we are going to take care of that."

24 A. That is where we differ.

25 Q. Where do we differ?

26 A. You said, "Leave that with us, we are
27 going to continue to bear it."

28 Q. And you such a prophet that you think
29 that 15 million 5 is going to disappear in about a year?

30 A. I do not say about a year.



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Q. Well, two years?

A. No, I do not suggest two years, but it is going to go down, and it is going to go down markedly.

Q. Are you going to tell this Commission it is going to disappear in three years?

A. No, I am not going to put a time limit of three years on it either. I say it will be markedly reduced in three years. It is in our hands, and we can deal with it.

Q. It is in the freight shipper's hands?

A. At the moment, I think that is not so. I would not agree with that. There is another thing in the relationship of the figures you have given to me. You must make the distinction that one of the figures is before income tax and the other is after. You cannot set the 35 million off against the 15 million.

Q. We will say your deficit really was 29 million -- on page 74?

A. Yes

Q. We will say it was 29 million. All right.

A. I see the figure.

Q. All right, it is \$29 million. How soon are you going to cut that \$29 million to zero or to the point where it ceases to be a burden on the freight shipper?

A. Well, we are cutting the 29 million down. In the meantime, it has been borne by the share-



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2 holder, not the freight shipper. We are working at
3 that. That is the problem we have and we will deal
4 with it as expeditiously as we can. I have no
5 apprehensions about that. It is a loss that is
6 decreasing.

7 Grain, on the other hand, is one that is
8 going the other way, because with rising costs our
9 deficit in the handling of grain is necessarily in-
10 creasing, and we cannot do anything about it so long
11 as the rates are fixed by statute.

12 Q. I just want to explore that with you,
13 just how bold and courageous the Canadian Pacific
14 Railway is. You are quite willing to go to Parliament
15 through this Commission and say, "Give us an income
16 tax concession . . ." -- that is, just giving you out
17 money -- "give us \$35 million to bring the export
18 grain rates to where they should be. We have a
19 deficit on passenger of about \$30 million; we are
20 doing the best we can with it. We are going to get
21 this package deal and that package deal, and we are
22 doing the best we can. We are going to try to turn
23 our transcontinental trains into a series of way
24 trains across the country. We do not know how that
25 is going to offend the public, but we are going to
26 deal with it; leave all that to us."

27 Do you think the Parliament of Canada would
28 stand up for the people of Canada and say that to you,
29 Mr. Emerson?

30 A. I say that Canadian Pacific will not



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2 go before the Parliament of Canada or through this
3 Commission to the Parliament of Canada, as you put it,
4 and ask Parliament to deal with a problem which we
5 can deal with ourselves.

6 Q. Which you what?

7 A. Which we can deal with ourselves.

8 Q. Oh, Mr. Emerson, aren't you just living
9 in a dream world when you are talking about handling
10 it for yourselves -- this passenger deficit that has
11 had you beaten for years and years and years?

12 A. Mr. Frawley, that is not the case at all.

13 Q. How long ago is it that passenger
14 made a profit?

15 A. Passenger train revenues were, of
16 course, a much larger factor in our operation during
17 the war years, for example.

18 Q. During the war years?

19 A. Yes.

20 Q. Yes, you can skip that.

21 MR. SINCLAIR: Let him finish. We are not
22 going to skip it. You asked the question.

23 MR. FRAWLEY: You can take all the time you
24 like to put those war years' figures on the record,
25 when you were transporting troops all over the country
26 during the war years.

27 THE WITNESS: And people, not only troops.

28 MR. FRAWLEY: Q. And government officers, and
29 all sorts of people looking after the troops.

30 MR. SINCLAIR: And even lawyers.



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THE WITNESS: Just to give you the swing of it, in 1944 we on Canadian Pacific had a total of 2,891,000,000 odd revenue passenger miles. Now, for the year 1959 that had shrunk to 1,112,000,000, slightly over a third.

Q. You say you made a profit in 1949 of how much?

A. No, I did not say we made a profit in 1949. I said our revenues were much greater. The trains were better patronized, of course.

Q. You did give me a profit figure for 1944?

A. No, I did not give you a profit figure.

Q. Give me a profit figure.

A. I do not have a profit figure.

Q. That is all I am talking about -- a profit figure. I put it to you that it has been a long time, and you said, "Oh, you are wrong, Mr. Frawley". I thought you were going to give me a profit figure.

A. I do not have a figure. There is no doubt but that during the war years our passenger services were profitable.

Q. Surely you can tell me whether you did have a profit or not?

A. I have not got a cost analysis, and you can appreciate that in this case a breakdown between the different aspects of our operations ---

Q. I say again, Mr. Emerson, I cannot conceive of you asking this Commission to do anything about passenger when you cannot even tell them how much



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profit you made during the war years?

A. We are not asking this Commission ---

Q. In the respectful submission of the Government of the Province of Alberta, you should be. That is the issue between us.

MR. SINCLAIR: Well, my learned friend can argue that at a later date. You will have lots of opportunity.

MR. FRAWLEY: It is not a matter for argument.

MR. SINCLAIR: There is no use in -- in the respectful submission of the Canadian Pacific Railway, and acting on their behalf, I must respectfully say that Mr. Frawley has misconceived the position, and that that can be argued at a different time.

COMMISSIONER GOBEIL: Mr. Emerson, during the last thirty years, except during the war years, would you say that you ever made a profit with the passenger traffic?

THE WITNESS: In the last thirty years, sir?

COMMISSIONER GOBEIL: Yes.

THE WITNESS: Except during the war years?

COMMISSIONER GOBEIL: Yes.

THE WITNESS: Probably not in that period, excepting during the war years because from 1930 to 1939, of course, was a depression period and we suffered along with the rest of the country. Then, of course, you have the war years in which I think passenger train services were profitable, and perhaps in the immediate postwar period. Since then, things are swinging the other way again.



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2 Q. All right, Mr. Emerson. Now, this
3 morning you insisted and my friend Mr. Sinclair supported
4 you strongly that there was a difference between cost of
5 money and return on investment.

6 A. Yes, sir.

7 Q. You did not wish to identify those two
8 expressions?

9 A. I think I gave you a definition.

10 Q. If your company earned the cost of money
11 at 10.4%, if it earned the cost of money on all traffic,
12 could you give me any idea what the rate of return on
13 the Canadian Pacific investment would be?

14 A. Well, the rate of the return on the
15 investment ---

16 MR. SINCLAIR: That is a calculation.

17 THE WITNESS: It would be about $6\frac{1}{2}\%$.

18 MR. FRAWLEY: Q. About how much?

19 A. $6\frac{1}{2}\%$.

20 Q. If you earned the 10.4% on all traffic,
21 not on grain, but on grain, passenger, skelp to Vancouver,
22 anything you want to put in, if you earned 10.4% cost of
23 money what would be the rate of return on your investment?

24 THE CHAIRMAN: That is the rail investment?

25 MR. SINCLAIR: No, it is every movement costed
26 out and ---

27 MR. FRAWLEY: And it would be slightly
28 astronomical.

29 MR. SINCLAIR: But it is an arithmetical
30 calculation that requires costing figures that we have



1
2 told this Commission are not available.

3 MR. FRAWLEY: Q. But you are saying you want
4 10.4% on grain?

5 A. We are saying we want the full cost of
6 the movement of grain.

7 Q. You want 10.4% under the heading "Cost
8 of Money"?

9 A. Yes.

10 Q. And we do not know what you want or what
11 you get on these various other traffics?

12 A. No, because we are not, if I may say so,
13 hampered by statutory restrictions on the other traffics.

14 Q. But the fact is you are not telling this
15 Commission, you do not intend to tell the Commission what
16 the cost of money would be if you earned it at 10 $\frac{1}{4}$ %,
17 what the rate of return would turn out to be on your
18 total investment?

19 A. I am sorry, I do not think I quite follow
20 you.

21 Q. All right. I do not blame you if you
22 do not follow me because the question was somewhat
23 confused. If you had costed out your passenger and all
24 your various traffics, some of these traffics that are,
25 it would appear, earning less than 1¢ per ton mile, if
26 you had costed them all out and had used 10.4% as the
27 cost of money in all these costings what would have been
28 the rate of return on the investment?

29 MR. SINCLAIR: Mr. Chairman, with all due
30 respect, I objected to this question in another form



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just a minute ago on the basis, as we have told this Commission, this requires complete costing on the movements of everything done on the railways.

THE CHAIRMAN: Can the witness answer the question?

MR. SINCLAIR: With all due respect, I as counsel have said these figures are not available.

THE CHAIRMAN: I think the simple answer is that he cannot answer it.

MR. FRAWLEY: Q. That is just the question I want on the record, you cannot say it because you have not costed those traffics?

A. No, we have not costed it.

Q. But you have costed this one single traffic, export grain?

A. Oh, because it stands out very very clearly itself.

Q. You only costed one piece of traffic?

A. Oh no, we costed various elements.

Q. Put them before the Commission without me saying them and use 10.4% with respect to different costings and tell me what the rate of return on your investment would be?

A. I think that is impossible and I think you recognize that, sir.

Q. Now, Mr. Emerson, will you go to page 54 that we were dealing with this morning and you told me that you did not include a return on the cost of money variable with miles of track and I put it to you



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2 that if you had, if you had, the figure of 25,000 ton
3 miles per mile of road would be 43,500 ton miles per
4 mile of road. If you read that sort of figure, if you
5 inserted that sort of figure on page 54 in the second
6 line of the first full paragraph you would have had to
7 had an additional 900 or 1,000 miles to the 850 miles
8 that you used on page 54 and it is specified on page
9 53. Is that not correct?

10 A. Well, I think the arithmetical result
11 is so that if you added the cost of money into the
12 calculation you would increase the number of revenue
13 ton miles necessary to meet size variable expenses as
14 quoted on exhibit 183 to about 43,500. I accept your
15 figure on that but this is a different determination.
16 Exhibit 183 was developed for the purpose of putting
17 before this Commission a guide, not a precise guide
18 because in the nature of things it could not be that
19 but an approximate indication of the point at which the
20 economics of transportation begin to divide between a
21 truck movement to railhead, on the one hand, and a
22 branch line movement on the other. That is a different
23 thing.

24 Q. That is right, Mr. Emerson, and I do not
25 use this word with any offence, I am apologizing for
26 using it so I am sure you will not take any offence, but
27 I am suggesting to you in preparing that estimate you
28 loaded it first by using 8.35¢ as your highway cost and
29 then you loaded it by not putting in a cost of money
30 and then you come out with 25,000 tons a ton mile per



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2 mile of road?

3 A. No, I do not think I would agree it was
4 loaded. The 8.35¢ represents, I think, a fair figure
5 for the cost of transportation which would be involved
6 by truck in cases such as this.

7 Q. An average?

8 A. Yes sir, necessarily an average; some of
9 them would be higher, some of them would be lower.

10 Q. But 8.35 is a good average?

11 A. It would be necessary in each individual
12 instance to make a study and determine the costs. This
13 is a rough average guide post.

14 Q. All right, we believe it does that way --
15 I am sorry, I thought you were finished.

16 A. I wanted to point out something, you have
17 to remember the context in which this figure is used
18 and developed is short haul, it is over relatively poor
19 roads. We did not envisage in most places if you tore
20 up a branch line you would have the high class highway
21 reaching the railheads and it would be under these
22 circumstances, largely a one way haul.

23 Q. Well, of course, in connection with what
24 you have just said, I am reading from page 54, an answer
25 you had shown that you arrived at a figure of 25,000
26 ton miles per mile of road I find the following
27 sentence:

28 "As I have indicated, there are few miles of
29 branch line ---

30 It is fair to substitute 850 there, just



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2 turning back the page to 53 we find 850 there at the
3 top of page 53.

4 A. Yes.

5 Q. All right, I will read it again:

6 "As I have indicated, there are 850 miles of
7 branch line on Canadian Pacific ---"

8 That Canadian Pacific does not mean Canadian
9 Pacific western lines, Northern Alberta Railways, that is
10 all Canadian Pacific Railway lines where that condition
11 prevails?

12 A. Right.

13 Q. And to determine an amount, a figure for
14 application all over Canadian Pacific you had two things,
15 you used the figure of 8.35¢ for the average highway
16 cost and you failed to take another item into account
17 for cost of money.

18 A. Yes, because as to cost of money in this
19 instance you must bear in mind that here you are
20 considering the economics as between continuing a
21 branch line or tearing it up and if they do that the
22 branch line is lost anyway.

23 Q. I put this to you too in that regard,
24 if the Canadian Pacific expects to receive a 6½%
25 return on 2,500 miles of Crow grain related branch lines
26 so they will not become candidates or abandonment which
27 is an expression I have taken from your brief ---

28 A. Yes.

29 Q. And I put it to you as strongly as I can
30 that every branch line should be similarly regarded and



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similarly judged.

A. Well, on that I should make it clear that Canadian Pacific is not accepting and nowhere in the submission includes, I think, the suggestion that we might receive cost of money on each and every line. It is on the total that we are looking at because there will be some lines that are more profitable, some that are less but it is the overall, as I said the other day, one plant.

Q. I think we have said all we need to say about that. I would now like to go to another subject not too far removed from what you are saying and that is the statement you make on page 51 the effect of which is you do not have a branch line problem?

A. Yes, sir.

Q. Would you follow me when I put on the record and call to your attention the figure which appears at page 33 of the Duff Report and that figure is that the Canadian Pacific had in 1931, that is the best I can make out of it, is 1931 -- subject to some further work in the Archives on the part of the Commission's research staff, the best I can make out of it is these figures apply to 1931 and if they are in error I would be glad to have them corrected.

For the year 1931 we find that the Canadian Pacific had 6,053 miles or 36.82% of its road in light density lines. Light density lines are defined on the same page, 33, as being those which carry less than 250,000 net ton miles per mile of road annually.



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That was the situation in 1931?

A. Yes.

Q. And you are calling attention, of course, on page 51 to the situation as it then was and indicating that it was not quite fair to make comparisons now with the situation then, were you not?

A. It certainly is not, no, for the reasons I gave yesterday.

Q. Now, the next figure I have to give you is 1948 and there I have to go back and call upon the aid of two old friends of mine, Mr. Frank Evans and Mr. Sam Libby. I find in the transcript of the Royal Commission on Transportation for the 2nd of March, 1950, Mr. Evans was taking his witness Mr. Libby through the document called "The Submission of the Canadian Pacific to the Royal Commission on Transportation, Appendix to Part I". Looking at page 3 of that appendix there you have a map that certainly could not have been produced without a lot of man hours. I want to just take from that what the witness Mr. Libby said to his counsel at page 16786 of this transcript and what he said was that in the third category, the light traffic, there was 6,909 miles or 41%. So, as we go along we find in 1931 you have 6,053 or 36.82% and in 1948 you have 6,909 miles or 41%. I assure you if you look at that transcript you will find at page 16785 that the question was asked by Mr. Evans as to how the grouping of the categories arose and ^{what} Mr. Libby said, and that will be found on page 41 of the Duff Commission if the Commission is interested.



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2 So we have a situation between 1931 and 1948. Now,
3 I come to 1954, and, incidentally, there was a traffic
4 study made in 1954 and I have here a railway freight
5 traffic atlas of Canada but I am sorry to say all it
6 does is present a very nice picture but there are not
7 any thousands of miles or percentages but there is
8 something else could be looked at. I put to you that
9 in the year 1954 you had 6,784?

10 MR. SINCLAIR: What is the source of that
11 figure?

12 MR. FRAWLEY: The source is Table C-10 from
13 volume 1 of the submission to this Commission by W.B.
14 Saunders and Company of British Columbia.

15 MR. SINCLAIR: Which has not been presented
16 to this Commission.

17 THE CHAIRMAN: No.

18 MR. FRAWLEY: Well, on the basis we sometimes
19 present figures for identification I would ask you, Mr.
20 Chairman, to permit me to put to the Commission ---

21 MR. SINCLAIR: Are you going to call a witness
22 to support it?

23 MR. FRAWLEY: I am not calling a witness to
24 support it.

25 MR. SINCLAIR: Well, in view of that statement
26 ---

27 MR. FRAWLEY: My friend is being technical
28 but I have every reason to think that somebody is being
29 called to validate this document, otherwise it is not
30 going to be looked at by anybody.



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MR. SINCLAIR: Then why present it?

MR. FRAWLEY: Because I am saying this figure is a figure that will claim support and if I find this figure is not put in evidence then I will withdraw this figure. I would think the Canadian Pacific Railway would go along, I am talking about Canadian Pacific figures taken from their own data.

THE CHAIRMAN: Does the witness agree with the figure?

MR. FRAWLEY: I will put it to the witness and see. I put it to you that you have 6,784 miles of these light density roads, that is, ranking from zero to 249 million of freight net ton miles annually.

A. I have no way of confirming that figure.

Q. But, Mr. Emerson, you being Executive Vice President of this railway, may I put it to you this way: Does that figure shock you or disturb you as being very far out of line?

A. Well, I do not carry around a 705 machine to get the answers to that sort of question.

Q. And if that figure is worked out in percentage it is 42% of your lines in 1954 were these light density lines.

A. Well, at this point I think I should say we are talking about very different things here. The figures you have given me we are talking about lines that have densities up to 250,000 net ton miles per mile of road. What I have been talking about in this memorandum is up to 25,000. Now, that is a ratio of



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ten to one.

Q. We were talking on page 54 about the kind of load where, to quote from your page 54, the kind of load where, "fewer of the nation's economic resources are required to move traffic by highway than by railway."?

A. Yes, less than 25,000.

Q. I pass from that and I am putting to you the general proposition that you put in this brief, "We have no branch line problems", and I put to you in return that if you had a branch line problem at the time of the Duff Commission, you have not only the same branch line problem you have a little worse branch line problem in this year 1954.

A. No, I do not think I would agree with that. Let me give you a figure to explain why: at the time the Duff Commission wrote its report in 1931 the total ton miles of revenue freight handled by Canadian Pacific was 10 billion 793 million. Now, in the year 1959 they were 25 billion 953 million, two and one half times as much.

Q. Sure, that is another kind of figure and there all kinds of figures available. I am putting to you that if the number of light density lines were operating or trying to operate you had just as many in 1954 as you had in 1931 and I say to you that does not indicate that you have any less branch line or light density line problem, you have the same light density problem now as you had in 1931.



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A. I do not agree that all of these lines ranging up to 250,000 revenue ton miles per mile of road are a problem.

Q. Well, if passenger is not a problem, then I can certainly understand why these light density are not a problem.

Now, I want to ask you something else about the scheme that you have for obtaining from the Government of Canada this income tax concession arising out of your Crow rates. Just speaking from memory, you are suggesting that there be an arrangement between the Minister of Finance and the Board of Transport Commissioners by which the Board of Transport Commissioners will advise if costs have increased. I am putting it very generally, but isn't that what you are -- you have undertaken to keep the Board informed of the fluctuation in costs?

A. I think you are putting it pretty loosely, if I may say so.

Q. Well, you put it for me?

A. Well, as I understand it, and it has been some time since I looked at this, the proposal was that the Board of Transport Commissioners would fix a just and reasonable rate and vary it from time to time as circumstances may require.

Q. Yes?

A. And that the difference between that rate and the statutory rate would be the basis on which compensation to the railways would be arranged in the



1
2 submission of Canadian Pacific through the vehicle of
3 income tax.

4 Q. That is right, that fixing of the just
5 and reasonable rate by the Board would be the result
6 largely of the determination of just and reasonable
7 costs?

8 A. I would think it would be founded very
9 largely on costs in a case of this kind, yes.

10 Q. I don't think you intended to do another
11 one of these quarter of a million grain cost studies
12 every year, but you intended to keep the Board informed
13 from time to time about the increase in costs?

14 A. Well, the Board from the records they
15 have and from the access they have to our books could
16 satisfy themselves as to the changes that are taking
17 place in costs.

18 Q. And if the costs went up, then you would
19 expect that the rate which the Board was going to
20 preside over would go up accordingly?

21 A. Yes, I think that is right.

22 Q. And then the tax concession from the
23 federal government will also increase accordingly?

24 A. It would reflect the difference, whatever
25 it may be.

26 Q. That is the nice handy arrangement you
27 are going to have with respect to Crow grain. Now,
28 suppose the rates go up on any one of your other
29 traffics -- some of your agreed charge traffic, say?

30 A. Rates go up?



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Q. No. If the costs of moving that traffic, any traffic you like -- "X" traffic -- if the costs go up, what is going to happen then?

A. Well, in that instance we are free; we are not restricted by an Act of Parliament to take whatever appropriate action there may be.

Q. That is right, and you are just as free as it was demonstrated you were the last time, so free that you had to take 75 per cent of the last increase from 32 per cent of the revenue?

A. I know that is your relationship, Mr. Frawley, and I don't agree with it.

Q. Well, I want to understand: if the costs go up on the international rates -- suppose the costs go up on this traffic that you move from the Canadian border, moving citrus fruits from Florida to Edmonton, and the costs go up by a higher wage award ---

A. Yes.

Q. From Emerson to Edmonton: you would go to the federal parliament and say, "These costs have gone up. You will have to increase this concession" -- you would do that?

A. No, as I said before, we have no intention of going to the federal parliament for action which we can take ourselves.

Q. So, we have with respect to grain that as the costs go up -- and I don't suppose you look for any great amelioration in the cost of wages and cost of material?



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2 A. No, I am afraid I am not enough of an
3 optimist to look for prices going down.

4 Q. That is right; but you have it very well
5 taken care of with regard to Crow grain because as
6 they go up the Minister of Finance looks after that;
7 that is the situation, isn't it?

8 A. Well, it is not the situation now,
9 certainly not.

10 Q. That will be the situation if you succeed
11 in convincing this Commission that your scheme should be
12 recommended to the Governor General in Council and
13 also if the Governor General in Council decides to
14 put that to parliament and parliament approves it.
15 In any event, if it all comes about as you are
16 putting it forward, then as the wage costs go up for
17 grain you have the Minister of Finance looking after
18 that; that is taken care of -- the public purse looks
19 after that. And, depending upon your ability to
20 increase other rates, the rate structure takes that,
21 and if you have not got that effective ability to
22 increase rates, then we have the same situation as
23 we have now -- some of the traffic bearing far more
24 than its proper share of the wage increases.

25 MR. SINCLAIR: So that I may understand
26 that question, Mr. Chairman, is the suggestion of
27 learned counsel for the Province of Alberta that he
28 is putting to this witness that instead of the proposal
29 advanced by the Canadian Pacific that Alberta is
30 suggesting that grain rates find their own level just



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2 as other rates do? If that is so, I think he could
3 make the question a lot shorter and the witness would
4 be able to follow it. Maybe my friend could help the
5 witness.

6 THE CHAIRMAN: I don't think he has gone
7 that far.

8 MR. FRAWLEY: Sometimes I am very alert to
9 what my friend Mr. Sinclair is saying because it is
10 something I have to look out for, but this is one I
11 pay no attention to at all.

12 Q. I just want to understand what this is
13 going to do and how it is going to affect the rate
14 structure in the event costs are going up -- and there
15 is no trepidation about that at all in your mind,
16 that you are going to have the Crow grain rates taken
17 care of and as costs go up -- because otherwise if
18 the cost of carrying grain goes up then the cost of
19 carrying fruit from Emerson to Edmonton goes up too?

20 A. There are certain common elements go
21 up too.

22 Q. Yes, there are so many of them that you
23 expect, if your workers obtain a substantial increase,
24 that would affect all traffic?

25 A. Yes. Unfortunately, up to now we
26 have been unable to have that recognized in respect of
27 increases which have taken place in the postwar period.

28 Q. Well, I put it to you, if you think that
29 is a perfectly valid and acceptable proposition to put
30 to this Commission, that you want the Crow grain taken



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2 care of -- that is, the further costs -- and I am
3 assuming you have won your point and got the income
4 tax concession after the 1st of January, 1961 -- but
5 then the costs go up in 1961 and you say, "It doesn't
6 cause me a worry in the world. I simply go through
7 the Board to the Minister of Finance and he increases
8 the income tax concession". That is the situation,
9 isn't it?

10 A. Just to be sure we are on the same
11 ground, first of all, of course, these cost increases
12 would be subject to the scrutiny of the Board.

13 Q. Subject to the review of the Board?

14 A. The scrutiny of the Board.

15 Q. Well, if you had \$35 million added to
16 your payroll, that doesn't take much scrutiny, does
17 it?

18 A. I don't know how closely the Board will
19 look at it. Some of the past cases before the Board
20 have taken quite a lot of scrutiny. In any event,
21 it will be subject to the scrutiny of the Board and
22 their determination as to what would follow as a
23 just and reasonable rate, and following that, of course,
24 action through the Government; but that is a neces-
25 sary consequence of what follows so long as the rates
26 themselves to the farmer are fixed by statute, and
27 we are not suggesting that be changed.

28 Q. I am glad you added that; you are not
29 suggesting the rates to the farmer be changed?

30 A. No.



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2 Q. Are you going to get the difference
3 out of the federal parliament and then, distinguished
4 from that, you are going to let the increased costs
5 of moving the citrus fruits from Emerson to Edmonton,
6 which are not subject to scrutiny by the Board --
7 you are going to ask that those costs ---

8 MR. SINCLAIR: I object, Mr. Chairman: the
9 rates are subject to scrutiny by the Board.

10 MR. FRAWLEY: They are not subject to in-
11 creases by the Canadian Board of Transport Commissioners.

12 MR. SINCLAIR: They are subject to the Board's
13 approval of increases, and both statements of counsel to
14 the witness are wrong, Mr. Chairman.

15 THE CHAIRMAN: I think Mr. Frawley can
16 change the question.

17 MR. FRAWLEY: Yes, I will change it.

18 Q. I will say that the rates to carry
19 citrus fruits from Emerson, where you take them, to
20 Edmonton -- that the ICC increases are rubber stamped
21 by the Board of Transport Commissioners?

22 MR. SINCLAIR: I object: they are not rubber
23 stamped by the Board. They are subject to proof.

24 MR. FRAWLEY: I am not going to take the
25 time of this Commission on this. We have fought that
26 question out so long that I pretend to know something
27 about it -- just as much as my friend Mr. Sinclair --
28 and I say the Board of Transport Commissioners accept
29 the ICC increases because they tell us it would be
30 chaos and it could not be done in any other way. There



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2 are good, justifiable reasons for the Board doing it,
3 but they accept them as sure as I am standing here.
4 So, these costs of bringing citrus fruits from Emerson
5 to Edmonton are increased ---

6 THE CHAIRMAN: But the Board is in the
7 picture.

8 MR. FRAWLEY: The Board of Transport Com-
9 missioners?

10 THE CHAIRMAN: Yes.

11 MR. FRAWLEY: Not in the picture at all, sir.

12 COMMISSIONER MANN: Mr. Frawley, I think
13 if you will forgive me, we ought to try and be as
14 just to the Board of Transport Commissioners as we can.
15 It is perfectly true that the Board of Transport Com-
16 missioners accepts in the vast majority of the cases
17 the rate increases put in by the Interstate Commerce
18 Commission. There have, however, as you and I know,
19 been exceptions: for instance, in the ex parte 212
20 increase there was an exception made, and in the
21 recently effective increase there was another exception
22 made; but, by and large, I think if you want to put it
23 on that basis, the Board does accept.

24 MR. FRAWLEY: I think I am being very gener-
25 ous, Mr. Commissioner Mann, if I say it is the exception
26 rather than the rule.

27 COMMISSIONER MANN: That is right.

28 MR. FRAWLEY: It is the exception rather than
29 the rule when they do not apply, as received, the ICC
30 increases.



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2 MR. SINCLAIR: With all due respect, citrus
3 fruits, the example my friend took, do not, moving via
4 Canadian Pacific through Emerson to Edmonton, take the
5 U.S. increases.

6 MR. FRAWLEY: Well, my friend knows more
7 about citrus fruits than I do. I simply say that
8 any traffic that appeared in your own exhibit filed
9 before the Board of Transport Commissioners last
10 November -- I suppose it is November a couple of years
11 ago now -- the exhibit showed that the international
12 rates and rates related did not take any part of the
13 last 17 per cent increase.

14 THE WITNESS: At that time?

15 MR. FRAWLEY: Q. That is right, at that
16 time.

17 A. At that time.

18 Q. All right.

19 A. But you should bear in mind those rates
20 are increased in conjunction with increases in the United
21 States.

22 Q. Yes?

23 A. They take their increases, and the only
24 difference is that it is not simultaneous.

25 Q. But they go up when the United States
26 railway worker has his wages increased?

27 A. That is right; that is the reason.

28 Q. And that is the extraordinary situation.
29 I am talking about the cost of extra wages in your
30 payrolls of the Canadian workers, for which you have to



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2 go to the Board to get an increase. Let us under-
3 stand each other, and that is what I am talking about,
4 and I am glad you mentioned that.

5 THE CHAIRMAN: In the rates you mentioned,
6 the Board of Transport Commissioners operates?

7 MR. FRAWLEY: In the rates I have mentioned?

8 THE CHAIRMAN: It passes on them?

9 MR. FRAWLEY: They do not, sir.

10 THE CHAIRMAN: They accept them?

11 MR. FRAWLEY: No more than Mr. Commissioner
12 Mann explained. I accept entirely the statement made
13 by Mr. Commissioner Mann and I shall proceed to ask
14 my questions on that basis.

15 MR. SINCLAIR: But, my friend will admit that
16 if the rates are non-compensatory they will not be
17 allowed to stand in effect, and when he says that the
18 Board of Transport Commissioners haven't got jurisdiction
19 over these rates, he is completely wrong.

20 MR. FRAWLEY: And I say to you that if I find
21 a single factor joint through rate from a point in
22 California to Edmonton -- I would like to know how I
23 am going to show it is compensatory or not, because
24 you won't even tell me what you get out of it.

25 MR. SINCLAIR: All I can say is, Mr.
26 Chairman, that the Board has jurisdiction. It is
27 not the duty of Canadian Pacific or any other railway
28 to tell Mr. Frawley all these things; but, the Board
29 has jurisdiction.

30 THE CHAIRMAN: It covers the waterfront?



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2 MR. SINCLAIR: Yes, sir, the Board's juris-
3 diction for all rates with one exception -- the
4 statutory grain rates.

5 THE CHAIRMAN: Well, we have heard that so
6 often, Mr. Sinclair, it is like Cato in the Roman
7 forests: Carthage must be destroyed. You have never
8 missed a chance or a witness; you have certainly impres-
9 sed us with that view.

10 MR. SINCLAIR: I must say in answer, that
11 my friend put to the witness a part of Mr. Saunders'
12 statement which was on page 64 and I thought when I
13 objected to it that this had not been presented to the
14 Commission. I apologize for this. Mr. Cumming has
15 checked the record and it went thirty pages beyond
16 this; it went to page 99. So, this is already before
17 the Commission subject, of course, to the fact that
18 because it came into our hands late we have not had
19 a chance to cross-examine.

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21 ---Short recess.
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THE CHAIRMAN: Order, please.

MR. FRAWLEY: Q. Mr. Emerson, I just have one or two small matters to ask you. Would you go back to page 74 of your brief, please, and there you have the setup of the passenger costs?

A. Yes, sir.

Q. And can you tell me whether there for anything in there for OCS movements?

A. No, sir.

Q. There is nothing in there for that?

A. No, it would be a relatively small item.

Q. It is not there, then. Would you mind -- thanks to my friend, Mr. Sinclair, we can talk a little more freely about Mr. Saunders, page 64 of his Volume I. Perhaps there is a copy of that now.

I do not intend to ask you in detail about it, but you have it in front of you now and according to my instructions it was prepared from Canadian Pacific data. Having looked at it, you have no quarrel, no exception to take to any of the figures that Mr. Saunders sets down on page 64?

MR. SINCLAIR: Quite frankly, Mr. Chairman, as you know, Mr. Saunders was not cross-examined.

THE CHAIRMAN: No, he was not.

MR. SINCLAIR: We have not analysed it. I have not even shown this part to Mr. Emerson. He has other duties besides trying to keep up with what goes on before this Commission.

MR. FRAWLEY: Q. I am concerned with



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2 Column 1. That is the tonnage that runs from zero
3 to 249,000.

4 MR. SINCLAIR: It may be right, I do not know.

5 THE CHAIRMAN: If he says he doesn't know,
6 that is it.

7 THE WITNESS: Well, I am not able to check
8 it, Mr. Frawley, with the data at hand. There does
9 seem to be some discrepancies in it, if I may say so,
10 in that the total miles of road in Column 5 are
11 given as 16,294; in the year 1954, as at December 31,
12 Canadian Pacific operated 17,061 miles. There is
13 a difference of about 700-odd miles there.

14 MR. FRAWLEY: Q. When you are looking at
15 the light density lines, the column under (1), if
16 you will look at the light density lines you have
17 26 of those kind of miles operated under the name of
18 the Dominion-Atlantic Railway?

19 A. Yes.

20 Q. And you have 29 miles in the province
21 of New Brunswick?

22 A. Yes.

23 Q. And 17 on the Quebec Central?

24 A. Yes.

25 Q. And 73 in the rest of Canada of your
26 own?

27 A. Yes

28 Q. And 52 in Ontario?

29 A. Yes.

30 Q. Twenty-eight on the Algoma Division?



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A. Yes.

Q. Eighty-eight in Manitoba?

A. Yes.

Q. And 188 in Saskatchewan?

A. Yes. That is the highest of the group.

Q. And 118 in Alberta?

A. Yes, that is the second highest.

Q. That line that runs down to Whiskey Gap would be one of those, I suppose?

A. It does not live up to its name.

Q. Not any more, but there was a time.

And in British Columbia you have 64?

A. Yes.

Q. So, you have all those -- most of those, of course, are ten miles there?

A. Yes.

Q. Then, the miles of road, of course, I gave you before, 6,784. All right, Mr. Emerson, I have just something else to ask you and that is with regard to the rather intriguing statement you have on page 63. I am sure you can explain it.

On page 63 you say in the first full paragraph -- I will read it because it is a really bold paragraph:

"It is equally unrealistic to consider that passenger train service of Canadian Pacific is a problem which cannot be met by managerial action. The progress made on Canadian Pacific in recent years



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2 has demonstrated this. I must
3 **emphasize**, however, the necessity for
4 realism in regulation in regard to the
5 discontinuance of unprofitable runs."

6 A. Yes.

7 Q. It is that last sentence. What is this
8 realism in regulation that you are so anxious to have?

9 A. Well, further on in the section, Mr.
10 Frawley, you will notice that there was a suggested
11 amendment to the Railway Act which was part of the
12 realism, and we would hope for realism on the part of
13 the Board and other parties of interest who might
14 appear before the Board, in recognizing the true
15 situation in any instance.

16 Q. You mean -- really what you mean is
17 that these parties should really stay away when
18 you come before the Board asking for the abandonment
19 of an unprofitable passenger run?

20 A. No, I did not suggest they should stay
21 away, but I hope that they wouldn't come there with
22 blind prejudice.

23 Q. With prejudice?

24 A. With blind prejudice.

25 Q. Blind prejudice?

26 A. Yes.

27 Q. You have another suggestion, and that is
28 some change in the Railway Act that is going to make
29 the people who oppose the discontinuance of a pas-
30 senger run pay for it -- if that is not expressing it



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too generally; you know what I mean?

A. Well, it is basically to say when Canadian Pacific has demonstrated that the revenues fall short of meeting the expenses that the onus for proving the necessity for the discontinuance of the run would fall on the party opposing the application.

Q. Let us get down to cases. I must confess I am intrigued and also amazed that you would get over from the federal level and get down to the provincial level -- when you proposed to discontinue the overnight run between Calgary and Edmonton ---

A. That is right.

Q. You did not find the province of Alberta opposing it?

A. No, I think not in that instance, no.

Q. Now, suppose that the Government of Alberta had said: "Well, now, we have had a lot of complaints; that is a very convenient operation; a lot of people took that overnight train for convenience -- a full day in Edmonton for the Calgary man; a full day in Calgary for the Edmonton man. That overnight service is pretty handy."

A. Yes?

Q. "And we are going to go to the Board and protest the discontinuance of this line." Are you suggesting that the Board should say to the Government of Alberta, "If you want that overnight service, and you are here protesting against its discontinuance; if you want that overnight service



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2 between Calgary and Edmonton, you had better pay for
3 it." I just want to see how far you go, that is
4 all.

5 A. Well, of course, Section 315A of the
6 Railway Act has to do with the discontinuance of
7 passenger service, with the withdrawal of passenger
8 service from a line of railway on which it has
9 hitherto been maintained. The instance between
10 Calgary and Edmonton was withdrawal of a train, not
11 a service. But, I will take it on that proposition.
12 Surely if the train was of sufficient importance to
13 people in Calgary and Edmonton who were travelling
14 between those points, and they patronized it sufficient-
15 ly, we would not take it off.

16 Q. No. "You are bold enough to come
17 here and present an opposition to the discontinuance
18 of this overnight run; just because you have come
19 here, you had better guarantee this overnight train."

20 In other words, in common language,
21 "Pay for it yourselves."

22 A. Or, use it.

23 Q. No, you just simply say, "Pay for it".
24 You would demonstrate that this is unprofitable.
25 I agree that you would have demonstrated that it was
26 unprofitable and it is just a matter of whether it
27 should be maintained notwithstanding that it is
28 unprofitable. I am only talking about this
29 constitutional proposition of getting away from the
30 federale, as we say in Quebec. Can you tell me on



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2 what basis you would ask the provincial government to
3 pay for the operation of a federal railway? That is
4 what I want to know.

5 A. Well, you say the operation of a federal
6 railway.

7 Q. This overnight run between Calgary and
8 Edmonton. That is, regardless of the fact that it
9 starts in Edmonton and ends up in Calgary, we in
10 Alberta have nothing to do with it at all.

11 A. You might have something to do with it
12 if it was patronized.

13 Q. Right. Now, I put it to you, can
14 you conceive of the fairness of asking a provincial
15 legislature to put up money for the maintenance of a
16 federal railway when that provincial legislation
17 has nothing absolutely to do with it, and my friend,
18 Mr. Sinclair, would be the first one to say, "Hands
19 off; the Alberta Government has nothing to do with
20 the running of this railway."

21 A. I take exception to the use of the
22 words "maintenance of a federal railway" because that
23 does not describe the situation in this instance. It
24 is not the maintenance of a federal railway; it is
25 the maintenance of service on a federal railway between
26 two points in Alberta.

27 Q. Supposing we undertake to pay for it?

28 A. Yes?

29 Q. What kind of laws could we pass in the
30 Alberta legislature respecting that overnight passenger



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2 operation? What kind of laws could we validly pass
3 in the Government of Alberta legislature?

4 THE CHAIRMAN: That is a question of law.

5 MR. SIHCLAIR: And the answer, obviously,
6 Mr. Frawley, is no. But if the province of Alberta
7 wish Canadian Pacific to maintain a service that is
8 not paying for the benefit of the people of Alberta,
9 the Canadian Pacific will take the bond of guarantee
10 of the Alberta Government and maintain the service
11 in the efficient way that they have done in the past.

12 MR. FRAWLEY: Q. You know, many, many
13 hundreds of years ago, Mr. Emerson, some Americans
14 threw some tea into a harbour down in Boston?

15 A. I have heard of that.

16 Q. Because they did not like the idea of
17 taxation without representation. And if you can tell
18 me that you intend to fasten upon the legislature of
19 Alberta anything with respect to paying for a federal
20 railway, all I can say to you is that I will meet
21 you in Parliament.

22 THE CHAIRMAN: Now that we have had the
23 Boston tea party, we are pleased.

24 MR. FRAWLEY: Thank you very much, Mr. Emerson,
25 for your patience.

26 THE WITNESS: Thank you, Mr. Frawley, for
27 your patience.

28 THE CHAIRMAN: I think Mr. Fournier would
29 like to ask some questions.
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2 FURTHER CROSS-EXAMINATION BY MR. FOURNIER:

3 Q. I have a few questions to ask regarding
4 the commuter traffic.

5 At page 84 of your submission, Mr. Emerson,
6 at the bottom of the page, the last paragraph, you
7 state:

8 "Canadian Pacific is in full agreement
9 with the position of the Board that
10 commuter service should not be operated
11 at a loss but will continue to arrange
12 commuter service to meet the demands of
13 these local areas within the revenues
14 available."

15 A. Yes.

16 Q. While at page 18831 of yesterday's
17 transcript, regarding Montreal you stated -- that is
18 your first answer there:

19 "A. That is our prime commuter area on
20 Canadian Pacific, and that would be the
21 area we had in mind; that is what this
22 exchange with Mr. Cooper had reference
23 to."

24 We would be interested to have some answers as to how
25 you determine the potential commuter traffic. Do
26 you have market surveys?

27 A. No, I am not aware of any market sur-
28 veys that we have conducted for commutation traffic.

29 We have, of course, considerable experience
30 over quite a long period of time arising from the sale



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of tickets, so we have a pretty good idea of how many people are travelling and using the trains.

Q. You do not do any survey in order to find out if one more train would be of better service, and so on, and so forth?

A. Well, that is a matter which would be handled by our passenger traffic department officers who would make inquiries and study the situation and, of course, in due course come up with recommendations for the addition of a train here or a train at this time, or taking off a train, as the case might be.

Q. How do you become aware -- how do you become aware of the commuters' feelings towards the service?

A. Commuters make us aware very readily of their feelings in some instances.

THE CHAIRMAN: They are vocal?

THE WITNESS: Yes, sir, they are quite vocal.

MR. FOURNIER: Q. Do you have any complaints in regard to the commuter service?

A. No, actually I should say that we do not have too many.

Q. Some months ago, there were two stops on the Montreal Lake Shore line that were eliminated in favour of one stop in between?

A. Yes.

Q. Meadowbrook and Summerlea?

A. Grovehill, I think, was one, and Summerlea



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the other, as I recall it.

Q. Do you have an estimate of the number of passengers which you lost when you combined these two stops; and, if so, what is this estimate?

A. No, I have no figures on that. I know there were representations made. It was quite a complicated question, actually, brought about by the construction of another railway line in that area and the moving of the Canadian Pacific line over to the north, which put the other railway between us and the Metropolitan Boulevard, which is the main traffic artery in that area. And, of course, the area south of the boulevard towards the river.

Now, the problem there was a technical one, in a sense. We had a number of commuters who were coming to and from our station each day, and in the course of doing so they had to pass over this other line of railway. We had two stations that were quite a short distance apart -- about eight-tenths of a mile, as I recall it -- and in order to provide for the safety of these commuters, we had to arrange for an underpass to take them across the other railway. Obviously, it seemed rather expensive, if I may put it that way, to arrange two separate sets of facilities at points such a short distance apart, so they were combined as one.

Q. Do you feel that your commuter train service is properly adjusted to the traffic flow?

A. Well, it is adjusted as best we see it.



1
2 I do not know that I would say it is perfect and
3 if there are any improvements that can be made in it,
4 we would certainly be open to take them into considera-
5 tion.

6 Q. Would you consider the RDC service
7 between Montreal and Dorval would be useful and
8 profitable?

9 A. It might be useful, but not to a
10 sufficient number of people to make it profitable, I
11 think, Mr. Fournier.

12 Q. Why wouldn't you, through RDC cars,
13 give as frequent service as the bus service in the same
14 region, which is bus service as I understand it, giving
15 an hourly run throughout the day? Don't you think
16 you could use RDC cars, and that you could compete
17 there and give a better and safer service probably?

18 A. Perhaps so. If we thought that that
19 would pay its costs and something more, we certainly
20 would. It is a question of revenues -- the balance
21 between revenues and expenses, Mr. Fournier.

22 -

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24 -



1
2 Q. You have not made a market survey to
3 find out if it would be a welcome service and if it
4 would be a profitable one?

5 A. No, not in the sense of a detailed
6 analysis, not that I am aware of.

7 Q. No enquiry whatsoever to the people
8 from all those various municipalities to find out what
9 they would want?

10 A. Well, we have had representations made
11 to us from time to time which have been considered but
12 I am not aware of one dealing with this specifically.

13 Q. You stated at page 62 of your submission
14 that Canadian Pacific Railway was built for freight
15 traffic and passenger traffic was extra business, as
16 a whole?

17 A. Yes.

18 Q. How do you reconcile that with the
19 building of railway hotels such as the Saskatchewan
20 Hotel and others?

21 A. Well, the hotel business itself has
22 been profitable. That was a separate venture aside
23 from the railway and, of course, it afforded
24 convenience to passengers who were travelling by rail
25 and others as well.

26 MR. FOURNIER: Thank you, Mr. Emerson, that
27 is all.

28
29 BY COMMISSIONER BALCH:

30 Q. Mr. Emerson, referring to the merchandising



1
2 service on page 25 I noticed integration there besides
3 the Canadian Pacific Express Company and so forth also
4 the Island Freight Service and the O.K. Valley Freight
5 Lines, they have been integrated within that service?

6 A. That is correct.

7 Q. Now, when you come east will it be
8 possible that Smith Transport will also be integrated
9 as part of the big body in merchandising?

10 A. It may be possible, yes sir.

11 Q. I understand from information we have
12 received here that Smith Transport is run with a
13 separate management, a separate entity?

14 A. Yes.

15 Q. What becomes of the management of Smith
16 Transport when they are integrated with the merchandise?

17 A. That is a bridge we have not crossed yet
18 but I suppose management will become integrated too.

19 Q. Well, there is something definitely there
20 to think of. On page 23 I noticed as I think the reason
21 for this merchandizing service was the labour intensity
22 in l.c.l. traffic?

23 A. Yes, sir.

24 Q. What do you think the result, in
25 accordance with the amount of layoff will be with the
26 integration of the transport, the Smith Transport and
27 the other branches of the service when it comes east,
28 in fact, right through the country?

29 A. The number of people who will be
30 displaced?



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Q. Yes. Will there not be quite a few truckers and quite a few railway men out of employment or am I wrong?

A. I would say, first of all, as I presently envisage it, it is something which would come gradually, not overnight or not all at once in any large area and in that way, of course, the adjustments in personnel, there is time to work this out, the retirements and resignations, dismissals and that sort of thing. Secondly, if our expectations and hopes are borne out as it seems to be in the very limited experience we have had to date, merchandise service will attract more patronage and more traffic and provide employment in that sense for more people than otherwise would be the case.

Q. Now I am going to ask you a couple of questions on free transportation and page 82 you give the various groups that in the future will receive free transportation but in part (III) you say:

"All other free transportation issued under authority of general order 656 to be eliminated".

Now, I have 656 in front of me and by the wording there I noticed that furloughed men will be in that elimination. Am I correct in that? If you look at paragraph 3(a) of 656?

A. Yes, sir, which section?

Q. It is section 3(a) furloughed is mentioned twice.

A. No, it was not our intention to eliminate free transportation to employees or pensioners of our



1
2 own company or their dependants.

3 Q. I am looking at railway labour
4 organizations officers, they are included in this page
5 82 but they also will be furloughed employees. You
6 will notice they are included?

7 A. Yes, well, they are furloughed from the
8 railway company and they would not lose their free
9 transportation.

10 Q. Suppose with a bad layoff men had been
11 furloughed because of lack of traffic and a good many
12 of them are being laid off?

13 A. So long as they retain an employee
14 relationship with the company it would apply.

15 Q. Then, on 3(b) it says officers and
16 employees who become disabled, what is meant by that?

17 A. Well, there are very few passes issued
18 under that section. Actually, last year there were
19 only 118 passes issued and it affects a relatively small
20 number.

21 Q. Supposing a man is entitled to this
22 25 year pass, his long service pass and has the
23 misfortune to be injured?

24 A. Well, I must confess I do not know how
25 exactly that has been done in the past but I would not
26 envisage any change in respect to this section.

27 Q. You see, what makes me worry about it
28 is section 3:

29 "All other free transportation issued under
30 authority of general order 656 to be eliminated."



1
2 A. No, I think not. You see, on page 82,
3 section 2 it says existing free transportation privileges
4 will be continued to directors, officers, agents and
5 employees of Canadian Pacific and their dependants.
6 Now, that was intended to cover broadly section 3.

7 COMMISSIONER BALCH: All right, thank you.

8
9 BY COMMISSIONER GOBEIL:

10 Q. Mr. Emerson, in discussing the piggyback
11 service you referred on page 28 of your brief to
12 regulatory restrictions?

13 A. Yes, sir.

14 Q. And you gave an example of regulatory
15 restriction to Mr. Mauro and Mr. Hume asked for another
16 example and you mentioned a case in Quebec where they
17 were requesting another \$200 additional licence.

18 A. Yes, sir.

19 Q. You mean by that that you would suggest
20 that this Commission should recommend that the provinces
21 should not be permitted to put regulatory restrictions
22 on their own highways?

23 A. Well, I do not know whether it is
24 within the competence of the Commission or parliament
25 or the Governor in Council to issue some kind of
26 regulation or act that would prescribe or proscribe
27 or limit the powers of the province. In such instances
28 I would hope that the Commission, if they accept this
29 point of view, and I urge it upon you strongly, would
30 at least before the issuance of unnecessary restrictions



1
2 on piggyback services. Whether you can go beyond
3 that or not I could not say.

4 Q. It would mean that we would enter the
5 picture more or less directly according to your
6 suggestion.

7 A. Well, you are studying railway
8 transportation in Canada, sir, and this is a matter
9 which I think is pertinent to that and the Commission
10 might well take note of this trend, if you will, and
11 perhaps suggest how it could be avoided or overcome?

12 Q. Incidentally, you say we are studying
13 the railway transportation and the submission is "C.P.R.
14 Company to the Royal Commission on Railway Transportation
15 in Canada", not, "on transportation". I believe I know
16 why you used this style. However, the fact is this is
17 known as the Royal Commission on Transportation. Mr.
18 Sinclair can correct me if I am wrong but I think your
19 counsel raised a point once that our terms of reference
20 would not go with highways. Would you say that
21 piggyback is part of railway transportation or highways?

22 A. Piggyback in the context we are using
23 it here is part of the railway transportation for
24 highway vehicles, it is a marriage of both to some
25 extent.

26 Q. If it has nothing to do with highways
27 how can a province interfere if you do not move on
28 the highways? This point I do not see.

29 A. The province exercises their control in
30 this instance over the operations of the motor common



1
2 carriers which they do control through the provincial
3 highway regulatory boards.

4 Q. But it is highways not railway.

5 A. But we are carrying the vehicles which
6 are owned and operated by motor common carriers who in
7 turn are subject to regulations of the provincial
8 highway traffic boards.

9 Q. In connection with the branch line
10 chapter, Mr. Frawley discussed with you for a long
11 while about the 50,000 net ton miles on page 53 as to
12 what was economically sound or not. I did not get the
13 point, he was so enthusiastic and you were so reticent
14 or modest, I could not get it through. In this 25,000
15 ton miles which is your standard to determine if the
16 line is economically sound what would be your revenue
17 per ton mile, an estimate, would it be 2¢ or 1½¢. I
18 mean, if you were carrying 25,000 ton miles of grain
19 that would not be good enough, would it?

20 A. Certainly not. Of course, for this
21 purpose we have assumed, and I do not think we can
22 very well do otherwise, that the traffic moving on
23 the branch line is of the same mix and character and
24 general composition as traffic moving on the main line,
25 in other words, different levels average about 1½¢,
26 something like that.

27 Q. Two pages further on at page 55 when
28 you mention that if you do not have just and reasonable
29 remuneration to export grain that you would have to
30 make application for abandoning of 2,500 miles. You



1
2 told Mr. Frawley that you meant by "just and reasonable"
3 fully distributed costs, I take it.

4 A. Yes. In our submission "just and
5 reasonable" would be essentially fully distributed
6 costs in respect to movement of grain.

7 Q. I suppose, Mr. Emerson, if on that
8 grain for export you only got variable costs, what will
9 that 2,500 miles do -- now, you do not even have the
10 out-of-pocket costs?

11 MR. SINCLAIR: I think at the request of the
12 Commission when Mr. Stenason was on the stand we put
13 those in at various levels, one cent, .9¢, right down
14 to something around 75.

15 THE WITNESS: Exhibit 144.

16 COMMISSIONER GOBEIL: I must have been
17 sleepy that day.

18 MR. SINCLAIR: No, perhaps you have heard
19 other things that have confused you as to the issues
20 before you.

21 COMMISSIONER GOBEIL: Q. You mean that if
22 we look through we will find instead of 2500, we may
23 find say 11,025 -- I mean, there will be a number of
24 miles given?

25 A. Well, perhaps I could just show you
26 the exhibit here and it will let you see where the
27 information was supplied.

28 Q. Thank you. In connection with your
29 passenger traffic, Mr. Frawley seemed to express doubt,
30 not doubt, but he mentioned to you that he was surprised



1
2 that the Canadian Pacific Railway would have only
3 \$16 million dollars deficit compared to \$36 million
4 dollars with the Canadian National Railways. As a
5 matter of fact, if you do not put free transportation
6 in your revenue it would be \$22 million dollars like
7 the C.N.R.

8 A. I do not think that is quite the result,
9 if I may say so. If free transportation had not been
10 included in revenues the result would be perhaps a
11 passenger train burden of \$19 million dollars or
12 something like that.

13 Q. Well, is your free transportation not
14 at \$6,700,000?

15 A. Yes, but the difference is the fact
16 that in coming down to the bottom line we have to
17 make allowance for the effect of income tax so it is
18 roughly half of that.

19 Q. But, if you put that in percentage would
20 it not be about the same as the Canadian National
21 Railways, almost one-third? I mean, you have the
22 revenue of -- your revenue would be \$63 million dollars
23 or \$64 million dollars?

24 A. \$64 million dollars, yes.

25 Q. And the Canadian National Railways
26 is \$90 million dollars and they have \$35 million
27 dollars so you have \$64 million dollars and they have
28 \$18 million dollars so the percentage would be about
29 the same?

30 A. No, the figures are not on the same



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basis because, for one thing, revenues included in Canadian Pacific, page 74 or in the transcript page 18264 include only the net of our express operations whereas Canadian National revenues include the gross express operations. There are other differences which make it difficult, in fact, impossible to compare these two statements precisely.

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2 MR. SINCLAIR: Referring to exhibit 182 as
3 the C.N.R. exhibit.

4 THE WITNESS: Yes, exhibit 182.

5 MR. GOBEIL: Q. I have a comment here which
6 I hesitate to make because it is local, but it is only
7 from your own experience that you can tell sometimes.

8 A. Yes, quite.

9 Q. Mr. Hume seemed to be a little bit
10 worried about competition between Smith Transport and
11 the C.P.R. I am not as worried as he is, but I would
12 be as worried as he is about the media of passenger
13 traffic and your airlines and T.C.A. airlines: would
14 it not be possible if passenger traffic interests you
15 so little that you wanted it to disappear that it could go
16 to the C.P.R. Airline and the T.C.A. Airline?

17 MR. SINCLAIR: If we could get some licences
18 from the Air Transport Board, if that is the suggestion
19 of the Commission.

20 THE WITNESS: The Canadian Pacific Airlines,
21 of course, as Mr. Sinclair has pointed out, is under
22 certain disabilities in regard to handling traffic
23 in Canada. The situation, I do not think is comparable
24 and cannot be compared with that between railway and
25 truck. With the remarkable and very rapid development
26 of aircraft, other means of transportation are becoming
27 outmoded for long distances. In addition, of course,
28 the federal government as a matter of policy has
29 announced it will continue to spend very large sums
30 of money for the provision of airports and terminals



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and that sort of thing, which will benefit, of course, the airlines that use them and the passengers that use the airlines. A railway, of course, is not subject to such benefits and it makes our competitive situation that much more difficult.

MR. GOBEIL: Q. To give you an example of that, we heard some time ago the President of the United Grain Growers, Mr. Brownlee, who was expressing some doubt as to the efficiency of the railways in their management of passenger services when he was mentioning parallel lines. Well, I do not doubt your efficiency because you are too big, either you or the C.N.R., to be inefficient, but at the same time, as in any big organization, perhaps something could be improved, and to illustrate a case along the same lines as Mr. Brownless was speaking, I was told by one of your officers that you did not want any more passenger traffic, and it was under these circumstances I was trying to get my usual ticket from Quebec to Ottawa leaving at 6 o'clock and arriving here at 12, and I was told it was cancelled. So I said that the only thing for me to do then was to take the plane so that I would not lose any hours in the day time. I asked why it was cancelled, and I was told, "I do not know why. I do not think we want any more passenger traffic." It does not mean so much, but at the same time we hear the C.N.R. mentioning recently about the service of two hours which is faster than a jet plane between Montreal and Ottawa and vice versa and I was wondering how it is that about only



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2 fifty miles more in distance means that you still have
3 four hours between Montreal and Quebec and why, for
4 instance, you were saying this morning that there is
5 between Montreal and Quebec certainly a good train for
6 passengers and why that from now on one will have to
7 leave Quebec by train in the morning to be in Ottawa
8 at night?

9 A. Well, that is the result, sir, I suppose
10 of curtailments that have come about, reluctantly on
11 our part I may say, but necessarily when we have had
12 a lack of sufficient patronage to justify the
13 continuance of particular services. As to the time
14 between Montreal and Quebec and vis-a-vis the time
15 between Montreal and Ottawa there is, of course, a
16 difference in mileage that would account for
17 approximately one hour. Secondly, departing from
18 Montreal for Quebec our line runs around the mountain,
19 you might say, and makes another stop at Park Avenue
20 which is the center of quite a populous area, and the
21 route to Quebec has more curvature and speed
22 restrictions on it than the line between Montreal and
23 Ottawa.

24 Q. Between Ottawa and Montreal it took me
25 the other day one hour and 25 minutes, and it took
26 35 minutes from the stop at Lachine to Montreal, which
27 is about the same as between Montreal and Park Avenue,
28 and you have a little dayliner which stops at every
29 station between Montreal and Quebec and it does the
30 trip in four hours, and your fast train does it in



1
2 four hours, not stopping anywhere. Why I am mentioning
3 this is that do you not think -- and it is like either
4 cigarettes or alcohol: when you smoke for the first
5 time you are sick, and the first time you take an
6 aeroplane you do not like it, but when you get people
7 used to taking them -- for example, I never used to
8 take a plane between Montreal and Quebec, but now I
9 do.

10 A. Certainly, more people are becoming
11 more air-minded every day; there is no doubt about that.

12 Q. The question is, whether you encourage
13 them or not?

14 A. No, we certainly do not encourage them
15 in any area in which we can offer a service and do so
16 profitably, where, in such circumstances as we cannot
17 run the service economically and efficiently, then I
18 think in the long run the best thing is for us to get
19 out of it and let the carriers handle it who can do it
20 economically and efficiently.

21 Q. I have only one more question: In
22 discussing with Mr. Mauro your passenger problem you
23 said to him yesterday that when a passenger line is
24 not profitable your philosophy was simply that it was
25 not necessary, and that on the C.P.R. you could not
26 see any line which was necessary for national policy?

27 A. For the national interest, yes sir.

28 Q. You are not stopped from abandoning
29 passenger lines, are you?

30 A. We are not stopping ...?



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Q. Are you stopped by some regulation when you want to abandon one?

A. No; we have to go to the Board of Transport Commissioners to get the approval of the Board to discontinue the last passenger service on the line.

Q. But is it your feeling that the Board is not giving you all the latitude you want in as much as you have proved that it is not remunerative?

A. I do not complain about the Board too much. I think they have looked at it realistically, or be it perhaps reluctantly, at times. Our main difficulty arises from the fact that the onus of putting the proof, if you like, for the necessity for discontinuance of the service is on the railway company. We think the shoe is on the wrong foot, and that in a case where passenger service has lost its patronage to the point where it has become unprofitable and in our view unnecessary, then upon that showing, the onus should be upon those parties who urge its continuance.

THE CHAIRMAN: Alberta should pay.

THE WITNESS: Alberta should pay.

COMMISSIONER GOBEIL: Q. Why do you say you have a burden of 15 million, and I thought it was 22 million and Mr. Frawley mentioned 30 million -- but, whatever it is, if you have a deficit or burden of 15, 20 or 30 million it must be due to one of two things: Either you are running a passenger line



1
2 which is unremunerative, or else you are not efficient.
3 Could it be something else?

4 A. No, I cannot think of any other elements
5 that enter into it. I certainly hope we are efficient.
6 We have tried in every way we can to be as efficient
7 as possible. I do not suppose our record is perfect,
8 but I think it is pretty good.

9 Q. Then it would mean that 25% of your
10 passenger lines are unremunerative and should be
11 abandoned?

12 A. 25%?

13 Q. Yes -- 15 million out of 60 million.

14 A. Oh, I do not think you can make that
15 relationship, sir, no; I do not think that follows.

16 Q. So, you do not have 15 million
17 unremunerative?

18 A. 15 million is the passenger burden on
19 all passenger service.

20 Q. Well, you do not get that 15 million
21 deficit out of profitable lines?

22 A. No, we get it out of either other
23 operations of the company or it is borne by the
24 shareholders.

25 Q. But this is the passenger deficit:
26 what do you mean "other operations"?

27 A. This is passenger deficit which may be
28 made up by a profit from freight operations, if you
29 like; or alternatively we fall short of meeting and
30 making our permissive level of earnings, for example,



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and it would mean it is borne by the shareholders.

Q. The last thing, Mr. Emerson, is, when you say that no passenger line is justified by national policy, it might be correct, I do not know, but suppose there were no C.N.R.?

A. No Canadian National at all?

Q. Yes. Would you say the same thing?

A. I do not think the two are quite parallel. What we are speaking of here is passenger service provided by Canadian Pacific, and I would not weigh that against the operation of the Canadian National Railway system as a whole.

Q. Oh, excuse me: what I mean is, if there were no C.N.R.

A. No Canadian National Railways?

Q. Yes. The federal government would give you a subsidy like you had in the west to build a line to go to Abitibi, for example, because this region cannot be without a railway. So, if there were no C.N.R., the C.P.R. would be there -- I would think.

A. That might be.

Q. And such a region as that cannot be without a railway?

A. What region was that?

Q. Abitibi. And if the C.N.R. were not there you would have to be there, or somebody would.

A. One railway, yes.

Q. Well, would you say that they can go without passenger service there?



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A. I do not know that they necessarily require passenger service under present-day conditions. It may be just a freight handling railway.

Q. But 600 miles to reach Toronto or Montreal ...?

A. Yes, with air services that is not difficult.

Q? Well, if I am not a millionaire, what do I do?

A. But air service today is becoming cheaper than rail service, particularly on runs of 600 miles or more.

COMMISSIONER GOBEIL: That is all, thank you.

--- Adjournment ---

John O.P. McTaggart

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

VOLUME No.:

115

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9 Nov 1960

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6	18986	11	Change "lines drawn" to read "line down"
7			
8	19006	21	Change "Mataskawan" to read "Wetaskiwin"
9	19010	13	Change "rates" to "regions"
10		18	Insert "train" between "passenger" and "cars"
11	19018	7	Change "essential" to read "central"
12		28	Insert "to know" between "need" and "and"
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14	19020	25	Change "directed" to "related"
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3 ROYAL COMMISSION ON TRANSPORTATION
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5 Proceedings of hearings held
6 in the Convention Hall,
7 Chateau Laurier, Ottawa, Ontario,
8 on the 9th of November, 1960.
9
10 -----

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14	Mr. A. H. Balch	Member
15	Mr. R. Gobeil	Member
16	Mr. H. A. Mann	Member
17	Mr. A. Platt	Member

18
19 COMMISSION COUNSEL

20	Mr. A. G. Cooper, Q.C.	
21	Mr. G. S. Cumming	
22		
23	Mr. H. W. Ellicott	Adviser
24	Mr. F. W. Anderson	Secretary
25	Major N. Lafrance	Assistant Secretary
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Ottawa, Ontario,
Wednesday,
November 9, 1960.

--- On commencing at 10:00 a.m.

--- Commissioner Balch not present ---

THE CHAIRMAN: Order, please. Mr. Mann?

BY COMMISSIONER MANN:

Q. Mr. Emerson, we are pretty near to each other in this room, and if I raise my voice it is so that the others in the room will hear. I want to assure you that the tone of my voice is just high for that purpose; my intentions are entirely pacific.

A. I understand, Mr. Mann.

Q. Mr. Emerson, I wonder whether you can help me in my understanding of something that is beginning to puzzle me a little. I want to discuss with you, if I may, for a few minutes some implications or some of the background of the proposal which your company has made on the Crow's Nest Pass rates.

A. Yes.

Q. Now, as I understand it, your position is -- and correct me if I put you in an inaccurate fashion -- your idea is roughly this, that the rates, quite apart from the context of the legislation that governs them, the rates on grain to export positions are unjust and unreasonable?



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A. At the present time.

Q. Yes. We are discussing this apart from the context of the legislation.

A. Yes, sir.

Q. But rates qua rates bearing unjustly and unreasonably; they cannot be made just and reasonable because the legislation forbids it?

A. That is correct.

Q. You have made a proposal as to the level of the rates which would make them, in your opinion, just and reasonable?

A. Yes, based on a study that was developed for the year 1958 and having regard to rates on grain and grain products to export positions taking their proper position in relation to the rate structure as a whole.

Q. Now, your proposal, however, envisages no greater cost of transportation to the grower of grain in western Canada?

A. That is correct.

Q. And that is so because in the opinion of your company the western grain grower cannot in the foreseeable future pay any more for the shipment of grain to export positions?

A. I think that is correct.

MR. SINCLAIR: I think, Mr. Mann, we put in, if I may recall this to you, "without undue hardship".

COMMISSIONER MANN: Right.

Q. But, bearing in mind what Mr. Sinclair



1
2 said, that to raise the rates to western grain growers
3 in the foreseeable future would cause undue hardship
4 to the western grain producer?

5 A. Yes, as it appears as at this moment.

6 Q. Supposing you could raise the rate and
7 create undue hardship, what in your opinion would be
8 the effect on the movement of grain to export positions?

9 A. Well, that is a very difficult question,
10 Mr. Commissioner Mann. We have not attempted to make
11 an analysis of it. In the long run, I expect it would
12 result in a decrease in the movement of grain, in the
13 long run.

14 Q. And that, Mr. Emerson, would lead to a
15 further under-utilization of your western plant?

16 A. Not necessarily, sir. That would depend
17 on the alternative activities on which the farmer
18 displaced from grain growing entered into.

19
20 Q. To the extent that, using your terminology,
21 some mileage in western Canada is solely related to
22 grain, that mileage would under the conditions we have
23 just discussed be excess or surplus?

24 A. Unless the farmer in those localities
25 and adjacent to those lines went into the growing of
26 sugar beets, for example, or some other commodity.

27 Q. To the extent that he does so, Mr.
28 Emerson, he makes his products perhaps more susceptible
29 to truck transportation than grain?

30 A. Some of them might be. Some of them



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might be, yes.

Q. In other words, even if you were free today to raise the rates on grain moving to export positions, you could not do so?

A. We could not do so?

Q. No. Economically?

A. Well, I think you could do so. It would certainly bring about some economic dislocations. Perhaps, in that sense, the situation with which we are faced is this, that over, now, a very long period of time these rates have been fixed in relatively their present quantity. And, of course, in that period of time costs have increased, and you have a gap that is widening.

Now, whether we could go back and retrace history, as it were, and have the rates move up in conjunction with costs, and keeping their place in a proper relationship to the rate structure, the dislocations or changes, whatever might have taken place, would have occurred gradually.

Q. But, as we have it today in 1960, and looking forward to, say, 1966 -- or, the end of 1965; I suppose we should take a five year period for ease of discussion -- if you dealt with the matter in its present context on the assumption that bygones are bygones, and you cannot do anything about them, it would be virtually impossible for your company to raise the rates to what you consider their just and reasonable level, because of the things you have outlined



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to us?

A. I do not think it would be impossible, sir. It would bring about, certainly, dislocation. In that respect, of course, the problem we are faced with here is one that has built up over the years as a result of the time lag, as it were.

Q. Yes, I understand the historical process.

You see, what I am trying to get to is simply -- we are confronted -- this Commission, this country, Canadian Pacific, the wheat growers -- we are confronted with the problem as of today. That problem may be the accretion of historical circumstances and so on. There are all sorts of circumstances that enter into it, but we have a problem to deal with today, and a plan to stake out for the future. Supposing -- and I can only put it in that context, again -- supposing you were as of tomorrow completely free to adjust the export grain rates as you saw fit, would you bring them of your own volition today, tomorrow, to the level which you think is just and reasonable, bearing in mind the position of those rates in the freight rate structure?

A. That is a difficult question.

Q. I know.

A. It is one that has not been considered in all of its implications, I might say. The situation with which we are faced -- perhaps I can use an analogy: in effect, we have got a kettle here, if you like, and the lid was put on it back in 1922 or 1923. In the years which have followed, there has been a pressure



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2 building up in this kettle and now we are faced with
3 the problem of taking the lid off without having an
4 explosion.

5 Q. I understand that. I suppose, Mr.
6 Emerson, it would be not unreasonable to say that if
7 someone took the lid off today, tomorrow, there would
8 be an explosion?

9 A. You mean without reference to federal
10 intervention in this matter?

11 Q. That is right, that is right. I am
12 discussing this in the atmosphere of the market place.

13 A. Well, it would certainly have a
14 pronounced effect, I should think, but our position here
15 is, in this context, that the lid, as it were, having
16 been placed by the federal government in years gone
17 by, and this situation having developed, I think it is
18 only reasonable that the federal government should take
19 some steps to meet this problem. It is one that arose
20 at their making, if I may say so.

21 Q. Yes, I understand that. But, you see,
22 as I understand it, Canadian Pacific generally takes the
23 attitude with regard to the freight rate structure that,
24 quite apart from any historical happenings and so on,
25 the market should rule; the market should be the
26 governing factor in the determination of freight rates?

27 A. All freight rates should be free to be
28 altered in accordance with the circumstances, yes.

29 Q. And I suppose, ideally speaking --
30 whether or not we can reach an ideal -- ideally



1
2 speaking, the grain rates should be treated the same
3 way, to be consistent with the basic philosophy of
4 Canadian Pacific?

5 A. Yes, I think that is not only the basic
6 philosophy of Canadian Pacific, I think it goes further
7 than that to the practice of sound economics.

8 Q. Right, right. Here, we have an
9 exception because of historical circumstance, that is
10 your position?

11 A. Yes, and because of legislation.

12 Q. Right. Now, again, though, if we
13 disregarded the historical circumstances and followed
14 the dictates of sound economics, then we should take
15 the lid off the grain rates and let them find their
16 just and reasonable level, bearing in mind their
17 position in the freight rate structure. That would be
18 your position under those circumstances?

19 A. Well, I do not know, Mr. Commissioner
20 Mann, that sound economics can ever be practiced
21 without regard for historical circumstances.

22 Q. Yes. Well then, we now have to modify
23 our position as to sound economics, strictly in the
24 sense of the theory -- straight economics, if you want
25 to use that term -- and we have to inject into our
26 analysis historical factors, sociological factors,
27 political factors, which all have a bearing on a
28 decision concerning sound economics.

29 A. They have to be taken into consideration,
30 yes, I think that is right.



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2 Q. Yes. You see, Mr. Emerson, the thing
3 that puzzled me, and that was the reason for our
4 rather extensive discussion on this, was simply this:
5 Canadian Pacific makes a sharp distinction between
6 those matters which are within its managerial discretion
7 and those matters which are without its managerial
8 discretion.

9 A. I think that is correct.

10 Q. That is correct?

11 A. Yes, sir.

12 Q. For instance, any problems you have
13 with regard to branch lines or passenger services, they
14 are, as you point out, problems that are capable
15 of being dealt with by managerial discretion?

16 A. Yes, they are the responsibility of
17 management and management is not asking anyone else
18 to shoulder its responsibility.

19 Q. Right, right. But, with regard to the
20 grain rates, this is not a matter for managerial
21 discretion?

22 A. Because our hands are tied, yes.

23 Q. Right. Now, I must ask you this, and
24 this is what puzzles me. It seems to me, Mr. Emerson,
25 and some of the things you have said to me certainly
26 have not dispelled this belief of mine, that even if
27 your hands were untied -- completely untied -- with
28 regard to the grain rates, your managerial discretion
29 would not allow you, because of the circumstances that
30 exist, your managerial discretion would not allow you



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2 to put those rates on grain moving to export positions
3 to their just and reasonable level?

4 A. All at once?

5 Q. Within the foreseeable future, without
6 causing undue hardship to the farmers of Canada and
7 without, oh, creating serious economic dislocation for
8 Canadian Pacific, as well as for the western provinces?

9 A. Well, all I can say there is that you
10 have to go back in these circumstances and review the
11 history behind the legislation, and the fact that the
12 legislation has, over these many years, acted as a tie,
13 as a hold-down over these rates.

14 Q. I understand your position, Mr. Emerson.
15 I am just having a little difficulty with reconciling
16 the approach to all other matters, which is a straight
17 economic approach, without too much regard for historical
18 circumstance, sociological or political factors, with
19 regard to the balance of the rate structure, and then
20 having too, in a sense, shift my thinking with regard
21 to the grain rates and inject into those considerations
22 other than straight economic considerations which you
23 have put on the balance of rate structure. This is
24 my fundamental difficulty. It is a philosophical
25 difficulty, if you wish.

26 A. Well, I think, if I may say so, that
27 the difficulty -- whatever it is -- arises from, as I
28 have said before, the long period of time over which
29 these rates have been fixed at a statutory level.

30 Let me go back in another way. If the



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2 statute of 1923 had been repealed two years later, or
3 three years later, the problem would have been
4 relatively small. But, with the efflux of time and
5 with the marked increase in costs that has taken place
6 over that period, this problem builds up. Now, that
7 is not of our making.

8 Q. No, I certainly did not want you to
9 think that I ever thought it was of your making. This
10 is one of those things that we have learned to live
11 with in this country up to now.

12 You see, if I am right, Mr. Emerson, and I
13 am not sure that I am, then the distinction that your
14 company makes in its submission to us -- the distinction
15 between fields that are susceptible to managerial
16 action, and the field that is not is, as of today and
17 within the foreseeable future, a strictly theoretical
18 thing. It means nothing, because the result is the
19 same. You could not move with regard to the grain
20 rates if you treated them the same as the rest of the
21 rate structure, and therefore it does not really
22 matter whether you can exercise managerial discretion
23 or not, because surely the exercise of managerial
24 discretion must mean that I can do something about
25 something. If I cannot do something about something,
26 I have got the right to do it, but it is a meaningless
27 right. I cannot put it into effect.

28 A.. Well, perhaps in another analogy you
29 might say that over the years the muscles of the
30 railway in respect to the statutory rates have become



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atrophied to some extent because they have not been allowed to function. Now, that, I think, is a disability, of course, which has flowed from the legislation itself.

Q. Yes. And it would not be your suggestion that those muscles could be toned up immediately; they would have to take a period of training and exercise?



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2 A. Well, I quite recognize that to raise
3 rates on grain to the extent that it is now necessary to
4 overcome all the disabilities which have been built up
5 in the past would cause serious dislocation. That is
6 the reason why Canadian Pacific in its submission and
7 recognizing this situation and the difficulties of the
8 western farmer, came to the conclusion that the only
9 proper way to handle this matter would be through action
10 by the federal government.

11 Q. Well, then, we cannot sum up any under-
12 standing of what we discussed, we cannot talk about
13 managerial discretion with regard to export grain rates,
14 we cannot regard them with the criteria of sound econo-
15 mics, we have to look at the grain rates in their
16 historical, political, sociological context?

17 A. And economic.

18 Q. Yes, economic, political, historic and
19 sociological context. It is for that reason that your
20 company has suggested the solution which it has brought
21 before us?

22 A. I think those considerations were in
23 mind certainly. If, of course, this Commission or
24 subsequently parliament should say that we reject
25 the solution offered by the Canadian Pacific but recog-
26 nizing the problems -- of this date grain rates are free
27 to move, the statute is repealed, then it would become
28 a matter of exercising managerial discretion which
29 would bring the rates into their proper level, perhaps
30 over a little period of time, but I am not sure of that.



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However, something like that would necessarily follow.

Q. There is, of course, a distinct possibility that bearing in mind the position of Canada's wheat-growing industry in world markets that were Canadian Pacific given the right to exercise its managerial discretion over grain rates, bearing in mind that, there would be no action for a period of time?

A. I doubt that very much. I would expect there would be action immediately. Whether this would go to the full extent that has been suggested here immediately, all at one time, I do not know. It is not a problem to which we have addressed ourselves really because that seemed to take the matter of the grain rates out of their context in the way they have been developed.

Q. That was the chief thing I wanted to discuss with you and you have been patient and I thank you for it. I am afraid I stumbled with it because it was a little difficult to formulate in my mind.

Now, I turn to a few matters in your brief but before doing that I wonder whether under the heading of economies which might be achieved by one or more railroads in Canada, whether there has ever been any discussion between Canadian National and Canadian Pacific as to the possibility of having a joint purchasing department with regard to items such as rolling stock and rail?

A. No, we do not have and do not contemplate a joint purchasing department but the purchasing



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2 departments of the two railways who are involved have
3 collaborated with a view to determining common specifi-
4 cations and standards for designs of rolling stock and
5 common designs and standards for rail so it simplifies
6 the problem of the acquisition of this material and
7 equipment.

8 MR. SINCLAIR: Mr. Emerson, I notice you are
9 addressing yourself to Mr. Commissioner Mann and both my
10 friend Mr. Frawley and myself, notwithstanding the fact
11 that I have moved, are having a great deal of difficulty
12 hearing you.

13 THE WITNESS: I will try to help you.

14 COMMISSIONER MANN: Q. One part of the
15 question was the recollection I had of something that
16 was contained in the special study for the Gordon
17 Commission, transportation in Canada, which was signed
18 by Mr. Lessard, and I think this also appears on the
19 final report in which the suggestion was made that the
20 railways, and I suppose this refers to them singly,
21 should work out their programme in such a way as to
22 take the peaks and valleys out of the programme and
23 enable the manufacturers of cars to have an even flow
24 of production. What I wondered about was, if that
25 is valid for one railway with regard to rail cars
26 might it not be even more valid if the two major com-
27 panies in Canada arranged their purchases in such a
28 way that the impact of the purchases on the country's
29 economy, which is a great one, would be more evenly
30 spaced?



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2 A. Well, that might be so. I can see that
3 it would be desirable from the standpoint of the car
4 manufacturers but from the standpoint of the railways,
5 and ¹ speak here of Canadian Pacific, we necessarily
6 like every business enterprise, have to relate our
7 expenditures to our income. The orders placed for
8 material and supplies are related to the cash in the
9 till, as it were, and until you get all the fluctuations
10 out of the economy as a whole it would be difficult to
11 take the fluctuations out of the individual aspects of
12 it.

13 Q. Now, there is a similar question with
14 regard to certain aspects of research, the development,
15 for instance, of new types of cars, such things as the
16 pulpwood car developed by the Canadian National and the
17 insulated boxcar which both you and Canadian National
18 developed. I have in mind such things as the AAR
19 railroad laboratory in Chicago. Is there any
20 scope for joint equipment research to narrow it down,
21 for instance?

22 A. That is being explored and is being
23 considered. It should not be thought that the problems
24 and situations with which the two railways are faced
25 are necessarily identical and I think there must be
26 freedom on the part of each company to pursue those
27 lines of endeavour in which they are most interested.

28 Q. I hope you do not take from that question
29 any meaning that this should be done by governmental
30 fiat?



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A. Oh, no.

Q. I was wondering whether the railways had explored, whether there was any possibility of it, whether it would be some measure of economy?

A. We have considered it, we have exchanged a good deal of information in that respect and I do not think it is a field that we should achieve integration on, if you want to use that term. In the hope of achieving substantial economy or obtaining better research, I think it has to be left to individual activities to a considerable extent.

Q. Now, turning to another subject, Mr. Emerson, you have an extensive operating background in the railway and I wondered whether you, with that background and in your present position, have ever felt that the safety regulations bearing on the company under the Railway Act were onerous?

A. I think they are outmoded to a considerable extent. These were drafted and evolved probably in a day in which circumstances were much different than they are at the present time. They are like Topsy in a sense that they have just grown up. I think they have become outdated. As to being onerous, not enormously onerous, they are a formality perhaps a little more that we have to comply with at times -- red tape, I should put it.

Q. A little bit like section 334 of the Railway Act?

MR. SINCLAIR: You forget at times that Mr.



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Emerson is not a rate man.

COMMISSIONER MANN: Q. I am sorry, that is the section that requires the railway to supply, if the Board wants it, it is not mandatory, supply all kinds of information on the kind of competition it encounters?

A. A little like that, perhaps.

Q. It is there and you are not too happy about that one. Perhaps the safety regulations are in the same category?

A. They are not major problems.

Q. Would I be right in saying that a company of the stature of the Canadian Pacific which must be and is very much concerned about the image it gives to Canada and jealously guards that image would behave responsibly in safety?

A. Yes, I hope so and I think our record would bear that out.

Q. I suppose you would agree that regulations and rules and regulations which have outlived their usefulness should be removed or changed?

A. Yes, I think perhaps that would be a sound principle to follow in the field. Of course, you are dealing with matters that are in many respects highly technical, high specialized. I do not believe they are questions which can be handled in detail, certainly before this Commission. The proper way, if a climate was set up, would be for a joint committee of the railways and the Board to get together and go over the Railway Act and the regulations of the Board in its different aspects and see what agreement could



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be reached in cleaning it up. It is not an overall major problem.

Q. I hope you do not think from my question that I had any idea that this Commission should deal with handrails or anything like that because we have enough troubles. You see, what I was coming to was simply this: I do not think -- now, I may not have remembered well enough but I do not think anywhere in the submissions made to us by your company so far there have been any recommendations with regard to the relaxation of safety regulations. I do not know whether I am right in my recollection but I do not recollect any.

A. I do not recall any either and the reason perhaps we did not put it before this Commission was we felt that (a) it was a matter that could better be handled in another form such as I have described and (b) it did not warrant the attention of your Commission. We are more concerned, I think, with principle and more important matters.

Q. Well, you see, this is not, in a way, a matter for managerial discretion either because you are confronted with legislation that you must follow and if you follow that legislation these regulations are onerous. Perhaps it may be helpful to you to have this Commission find that a climate should be established with regard to safety regulations and there should be some sort of relaxation.

MR. SINCLAIR: With respect, here we are dealing with a witness who does many things, but now



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2 you are getting into a question of law. The position
3 of the company is these regulations passed by the Board
4 of Transport Commissioners pursuant to powers under the
5 statute once passed have the effect of law but they can
6 be changed on application to the Board. There have
7 been changes made and the Board, particularly in recent
8 years, has resorted to round table conferences of tech-
9 nical people to discuss some of these matters to make
10 the changes that are necessary. This does not require,
11 in my respectful submission, any amendment to, I think
12 the section is 391 of the Railway Act.

13 COMMISSIONER MANN: I was not talking about
14 regulations having power pursuant to legislation, I was
15 talking about legislation itself which is the wellspring
16 for the regulations.

17 MR. SINCLAIR: I thought you were talking of
18 specific cases of safety regulations, handrails.

19 COMMISSIONER MANN: Well, safety regulations,
20 as we both know, are embodied in that, for instance, the
21 regulations about fencing railway property.

22 MR. SINCLAIR: I always like to look upon it
23 as a defence to claims. You see, it all depends on
24 which hat you are wearing. You may look at it as a
25 safety regulation, safety for cattle.

26 COMMISSIONER MANN: Safety for children in
27 urban areas.

28 MR. SINCLAIR: Oh, well, I was of course,
29 thinking of the little bit of fencing in urban areas
30 which is not the situation out on the line. Again here



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2 the Board has exercised very reasonable action by allow-
3 ing by order the elimination of fencing. I think this
4 witness can talk about that because he is very anxious
5 to get rid of the fencing where it is justified and
6 he has been pretty successful in doing it.

7 COMMISSIONER MANN: Q. I was not going to
8 explore that and take the time of this Commission ex-
9 ploring some of the details of this matter. I was
10 interested in the climate that prevails today which is
11 towards an accretion of historical circumstances and
12 resulted in legislation which is on the statute books
13 today but which you say is outmoded in some respects?

14 A. In many respects.

15 Q. I was addressing myself to that.

16 MR. SINCLAIR: I do not know if you know this
17 but there has been a very distinguished and able member
18 of our profession who has spent some very considerable
19 years trying to evolve suggested changes to the Railway
20 Act. It always brings a little bit of a smile to my
21 face when someone says, "Let us get a statement from
22 the Canadian Pacific for changes in the Railway Act".
23 This gentleman is on the government staff and I know
24 for five years he has made very, very little progress.

25 COMMISSIONER MANN: Q. I would not be
26 surprised. Just one other matter and that relates
27 generally to the position of Canadian Pacific with
28 regard to abandonments on the whole and with the
29 exception, I suppose, of the amendment that you propose
30 in the submission, you think that the present procedure



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2 with regard to branch line abandonments is satis-
3 factory?

4 A. Yes, I think that is a short way of
5 putting it.

6 Q. And that present procedure envisages
7 the giving of notice to the extent of thirty days to
8 interested parties. If my recollection is correct I
9 think that is right and if I a mistaken Mr. Sinclair
10 can probably help us very quickly.

11 MR. SINCLAIR: I was talking to my friend
12 about safety and what he had in the bar about it.

13 COMMISSIONER MANN: Handrails? I was wonder-
14 ing whether I was right in recommending that the usual
15 procedure in abandonment cases is thirty days' notice
16 to the affected parties?

17 MR. SINCLAIR: Well, the answer to that is
18 the regulations provided by the rules apply but it has
19 been the practice of the Board invariably to require
20 in effect more than thirty days notice. You get a
21 case, for instance, if you are serving a mine that is
22 closed or something like that and it is quite obvious
23 there is nothing to it.

24 COMMISSIONER MANN: It depends on whether
25 the application arises in Ontario or outside of Ontario?

26 MR. SINCLAIR: Correct, sir.

27 COMMISSIONER MANN: Now, you I understand
28 are against this process of consultation for forward
29 planning areawise of abandonment, you think by and large
30 it should be handled as it is now, line by line with the



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2 present procedure followed by the Board of Transport
3 Commissioners.

4 A. Yes, subject to the amendment we have
5 suggested. I see this branch line problem, in so far
6 as Canadian Pacific is concerned, not being an overall
7 problem in any way and as such it is not the type of
8 question which requires long range planning or consul-
9 tation or anything of that nature. It is rather a matter
10 to be dealt with on an individual basis. There is not
11 necessarily any relationship between the lines drawn here
12 which may be due for abandonment and a line somewhere
13 else. I think each should be dealt with by itself
14 and on its own circumstances and merits.

15 Q. What I wondered about was this: is there
16 any merit in some sort of area approach and I am not
17 defining the extent of the area by any means, some sort
18 of area approach to abandonment so that alternate agencies
19 of transportation and governmental authorities, pro-
20 vincial, municipal and federal, if you wish, can plan
21 in a more orderly fashion the creation of highway net-
22 works. That is one question. Is there any merit in
23 such a thing?

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2 A. I would reject it, Mr. Commission Mann.
3 No sir, I would not favour that kind of approach to a
4 situation of this kind.

5 Q. Similarly, I suppose, the answer would
6 be the same with regard to some sort of area approach
7 which would make disinvestment by people on railway
8 lines about to be abandoned, which would make that
9 disinvestment a little more orderly than would be the
10 case under the present procedure?

11 A. Well, I hardly think disinvestment, to
12 use that phrase, of railway lines under present
13 procedure which are about to be abandoned, or are
14 candidates for abandonment, is a major problem, really.
15 I do not think it involves any major investments.

16 COMMISSIONER MANN: Thank you very much,
17 Mr. Emerson.

18
19 BY COMMISSIONER PLATT:

20 Q. Mr. Emerson, just to follow this up
21 -- this last question: I presume if there were serious
22 conditions developed, for example, that it could be
23 shown one-third of the grain in western Canada was no
24 longer going to move, aside from anything to do with
25 freight rates, that then some sort of area program
26 may be justified in view of the great dislocation that
27 would take place?

28 A. If, for example, grain production on
29 the prairies was to be reduced by one-third? You mean
30 that type of thing?



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Q. Yes.

A. If that was to happen there would certainly follow substantial reductions in lines on the prairies, yes -- assuming, of course, it was not being replaced with some other type of activity which would generate vehicular traffic.

Q. The method of approach would depend to some extent on the seriousness of the circumstances?

A. Well, perhaps. It is a little difficult for me to deal with this in a somewhat nebulous context, if I may say so -- a reduction of one-third in the grain on the prairies may mean a reduction of one-third everywhere, or 100% in some areas and zero in other areas.

Q. That is quite correct; that is probably what would happen.

A. Yes, perhaps so. Even at that, I do not see that it is the type of situation which calls for an economic planning board or committee or anything of that sort. The difficulty with some of these things is that the more people you get involved in them the longer the deliberations go on and the harder it is to reconcile the different points of view.

THE CHAIRMAN: Even with Commissions?

THE WITNESS: Even with Commissions, sir.

COMMISSIONER PLATT: Q. Yesterday, if I may say so, you said some fairly harsh things about income tax, and I would like to point out if you had persuaded the government to double the income tax to



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2 84 in stead of 47 this would have reduced your
3 passenger deficit to even more than what it is.

4 However, seriously, you pointed out income
5 tax bears heavily on high capital industries?

6 A. Yes.

7 Q. And in view of the fact the rail
8 transportation is a high capital industry and the
9 transportation has a multiplying effect on the economy,
10 so the economists tell us, might not the government
11 act in changing the income tax structure as far as --
12 well, first, high capital industries and, more precisely,
13 rail?

14 A. That is certainly a field that might
15 warrant exploration, Mr. Commissioner Platt. Income
16 tax does bear very heavily on the railway which has an
17 income tax liability, as compared to other forms of
18 business, as indicated in the illustration which I
19 mentioned yesterday.

20 There is another aspect of the matter too
21 which perhaps should not be lost sight of, and it is
22 this: Canadian Pacific in competition with other
23 transportation agencies, such as highways, airlines,
24 inland water shipping, is in the unique position that
25 it alone in comparison with these other forms of
26 transportation provides at its own expense the route
27 facilities which it uses. In other words, on the
28 railway the road property as distinguished from the
29 motor carriers -- the highways; the inland water
30 carriers -- the canals and aids to navigation or harbours;



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2 and for the airlines, of course, the air terminals
3 and the navigational aids to air transportation.

4 On Canadian Pacific 57%, approximately, of
5 our rail investment is in road property, and as
6 against that these other forms of transportation have
7 very little. So, there is a reason why income tax
8 bears heavily on us as compared with competing forms
9 of transportation.

10 As a matter of fact, it is quite of interest,
11 and there is a strong co-relation between income tax
12 rates and the expense ratio of Canadian Pacific. Just
13 to give you the swing of this, the expense ratio, being
14 the ratio of railway expenses to revenue -- expenses
15 here including taxes, income taxes as well as other
16 taxes -- but in the years from its inception to 1917
17 the expense ratio of Canadian Pacific was below 70
18 in all but one year, and that was back in 1888 when
19 it was 70.7. Corporate income tax in Canada became
20 4% in 1917, and since 1917 the expense ratio of
21 Canadian Pacific has never been below 70, and it goes
22 on in the 70's and 80's up to 1945, and in 1946 the
23 rate became 30%.

24 MR. SINCLAIR: The income tax rate?

25 THE WITNESS: The income tax rate, yes, and
26 beginning with 1946 and continuing on the expense ratio
27 of Canadian Pacific has never been below 90. So there
28 is a very direct and quite a startling co-relation
29 between income tax and expense ratio -- and I am
30 speaking of our railway activities, of course.



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2 COMMISSIONER PLATT: Q. Mr. Emerson, I
3 gather from what you say that you think it would be
4 a fair sort of thing to have a different type of
5 income rate structure for rails than for highway,
6 carriers or water carriers?

7 A. I think so, yes; I certainly do. I
8 think something like that is done in certain other
9 utility fields. I believe the electric power industry
10 has some special exemption; I am not sure.

11 MR. SINCLAIR: It is very small I think;
12 about 5%.

13 COMMISSIONER PLATT: Thank you very much.

14 --- A short recess ---
15
16

17 RE-EXAMINATION BY MR. SINCLAIR:

18 Q. Mr. Chairman and Commissioners, when
19 Mr. Emerson was before the Commission on the 28th of
20 October, he was asked certain questions by my friends
21 for the assistance of the Commission, and this is
22 reported in volume 110, and first I have reference to
23 the examination of my friend, Mr. Cooper, and this is
24 volume 110 at pages 18340 through 18343. At this part
25 of the record Mr. Cooper was asking you, Mr. Emerson,
26 certain questions regarding guarantees from industry
27 in regard to the construction and operation of branch
28 lines, reference to which has been made in your
29 evidence?
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A Yes.

Q. Have you got that part of the transcript before you -- page 18340, and it goes for a number of pages through page 18343.

A. Yes, Mr. Sinclair.

Q. Specifically Mr. Cooper asked you to develop how many of the traffic agreements contained traffic guarantees given by the shipper, and you went on to tell him that there were certain mileages involved, and he asked you to develop certain information concerning these guarantees. Have you done that?

A. Yes, I have.

Q. Would you please then give the Commission the results of your investigations in the line of these questions?

A. Of the 125 miles of branch lines constructed by Canadian Pacific since 1949, 76 miles involving nine branch lines have been built under agreements designed to protect Canadian Pacific against loss of investment in these lines. In three instances the capital for the construction of the branch line was advanced by the industry with provision that the amount so advanced would be repaid to the industry by the railway according to the traffic volume handled on the branch line. In six instances capital for the construction of the branch line was provided by the railway company with provisions for repayments by the industry either by way of annual installments or in



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2 relation to the tonnage handled over the lines. In
3 latter cases the agreements generally provide for
4 minimum annual shipments failing which the industry
5 compensates the railway company according to the
6 deficiency. Some of these agreements are for a fixed
7 period of years ranging from six to ten, while others
8 are open-ended determined by the volume of traffic
9 involved.

10 Q. Yes, Mr. Emerson. In discussions for
11 new trackage in the Post-War II period, have provincial
12 governments at any time raised questions with the
13 railway as to building new trackage subject to guarantee?
14 Is that a type of activity that provincial governments
15 have at any time advanced?

16 A. No, I do not recall any proposals
17 advanced by provincial governments involving guarantees.

18 Q. Have there been any by municipalities
19 with respect to particular types of services or lines?

20 A. I do not recall any.

21 Q. If a line was to be built, Mr. Emerson,
22 would the Canadian Pacific be prepared to accept a
23 guarantee from a province to make up any deficiency
24 on the line?

25 A. Yes, we would certainly accept the
26 guarantee of a province, and I believe that would be
27 quite a proper step in instances where a province,
28 seeking to aid development in a particular section of
29 its territory, and having in mind the tax revenues and
30 other advantages that may flow therefrom, sought to have



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the rail transportation provided to that area.

MR. FRAWLEY: In Alberta we would like you to do that. We cannot tax you on main line, so we might like to get a branch in and tax it.

MR. SINCLAIR: I thank Mr. Frawley for that. I do not know what taxation the province of Alberta secures from the roads it provides for the highway transports that run throughout the province, but no doubt he will advise the Commission as to that in argument.

Q. What kind of taxes did you feel would be generated in the answer that you gave, Mr. Emerson?

A. The kind of taxes I had in mind would be the taxes that would be exacted by the province on the industry involved or its employees -- that type of thing.

Q. Yes. Now, volume 110 also, and this point was raised in two places: first, at page 18348 and 18349 by my friend Mr. Cooper in his examination of you, Mr. Emerson, and later at page 18345 by Commissioner Platt. The question here, Mr. Emerson, was the meaning of the terms "national interest" and "public interest", and at page 18349:

"Mr. Cooper: Q. Public interest, we will say, and national interest too, if you will go on with that?

"A. Well, national interest I suppose is a matter of interest to all the people of Canada in an actual sense. That is as close



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as I can come to it."

MR. FRAWLEY: Wouldn't that be "in a national sense"? I would think so.

THE WITNESS: Yes, that was an erratum.

MR. SINCLAIR: Q. And then later the question, "What about the other interests, public interests?", which was asked by Mr. Cooper, and your answer -- and there is some suggestion by Mr. Cooper that the phrase "public interest" could well require some discussion and clarification, and you undertook at the bottom of page 18349 -- your words were, "I will give it some thought and if something definitive occurs to me perhaps I can inform you."

Then, at page 18355 Commission Platt made reference to your offer to give some thought to the meaning of "public interest" and then very kindly went on to ask, if I may say so, a little more difficult question in which he said you might apply some criteria to it. Since you have had that before you for some ten days or so, you have thought about it?

A. I have. I am sure that many other people have given it thought over longer periods than that, but perhaps I can be of some assistance.

Q. Yes, that is what I think the Commission has in mind -- to let us have, with the best of your ability, what you think "public interest" means and what criteria should be used, in your view, to measure it?

A. In contrast to national interest which



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is a matter of concern to the people of Canada as a whole, it seems to me that public interest has to do with the interest of a segment of the population. I make a distinction between public interest in a segment in contrast to national interest as the whole nation. This segment having to do with public interest would ordinarily comprise the people in a particular area, although not necessarily confined exclusively to that.



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2 In the fields being considered here, probably
3 the best single measure of public interest is the net
4 financial benefit or loss. The dollar is a common
5 unit to weigh advanges and disadvantages, but it must
6 be recognized that there are some elements of public
7 interest which are not susceptible to precise
8 determination in this fashion.

9 For example, public interest, and here in
10 the national sense, may require that a line of railway
11 be built or maintained for national defence. In that
12 event, there is no problem in arranging, surely, for
13 the cost of operating that line, the excess of the cost
14 over the revenues which it attracts being borne by the
15 national treasury, again, in the interests of all the
16 people of Canada.

17 Q. What do you mean by that being borne?
18 Do you mean a bill to the Department of National
19 Defence, the same as you bill them for movement of
20 troops or movement of war materials, army materials
21 and supplies?

22 A. Yes, I mean just that, Mr. Sinclair.
23 And, again, in the example we were speaking of a
24 few moments ago, if the public interest of a province
25 required that a railway be built or maintained to open
26 up or keep in operation a mineral development, say,
27 when such line was not economically justified in the
28 sense that the revenues it attracted would fall short
29 of meeting the expenses associated therewith, there
30 does not seem to be any insuperable bar to the



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2 difference between cost and revenues being borne by
3 the province or other area, as the case may be, in the
4 same way.

5 In the end, I think I should observe that the
6 plea of public interest should not be used as the basis
7 to ride over particular interests, such as a private
8 interest, for to do so would be to deny fundamental
9 rights to a minority.

10 Q. Do you or do you not equate public
11 interest and public convenience?

12 A. No, I would not equate those, Mr.
13 Sinclair.

14 Q. Obviously, the next question, Mr.
15 Emerson, is why not?

16 A. Well, public convenience might be in a
17 narrow context simply the desire of a person living
18 adjacent to a branch line, let us say, to have the
19 re-assurance that the train would pass his door every
20 other day or something like that in case -- in case
21 some winter the road was blocked and he might have to
22 take the train to get to town.

23 MR. FRAWLEY: You always use the word
24 "necessity" with "public convenience and necessity"?

25 MR. SINCLAIR: No, I do not always use those
26 phrases together.

27 MR. FRAWLEY: Then, you really have something
28 to struggle with, and that is why we do not have
29 anything to do with it.

30 MR. SINCLAIR: I am sorry, I did not intend



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2 to examine -- I will be very glad to do so, and in
3 view of the request of my friend ---

4 MR. FRAWLEY: I was just trying to be
5 helpful, as you are to me so often.

6 MR. SINCLAIR: I am glad you have recognized
7 so publicly what I have been trying to do for you.
8 Now, I will ask the witness the question in due course.

9 MR. FRAWLEY: Now, I have to thank you.

10 MR. SINCLAIR: Thank you.

11 Q. Now, Mr. Emerson, you say that
12 convenience would be where a person might wish for
13 the possibility of requirement to have the train pass
14 his locality -- I do not know what your exact word
15 was -- every two or three days, or whatever it was.
16 How many conveniences, Mr. Emerson, does it require
17 cumulatively to change it from a convenience to an
18 interest?

19 MR. MAURO: Convenience to a what?

20 MR. SINCLAIR: An interest; a public
21 interest.

22 MR. MAURO: "Necessity", I thought we were
23 going to add.

24 MR. SINCLAIR: I said in due course, Mr.
25 Mauro.

26 THE WITNESS: Well, I think that is best
27 translated, Mr. Sinclair, in a case of this kind --

28 MR. FRAWLEY: If I might understand the
29 question. How many incidences do you have to have
30 before it is translated from convenience into interest?



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That is algebra, now?

MR. SINCLAIR: Of course Mr. Emerson is excellent on Algebra, but I would suggest, Mr. Emerson, that you do not pay any attention to my friends but that you try to assist the Commission.

THE CHAIRMAN: You are choosing your language now?

MR. SINCLAIR: I am choosing my language?

THE CHAIRMAN: Yes.

MR. SINCLAIR: I know of no other way to convey a thought, sir.

MR. FRAWLEY: Mr. Emerson is good in algebra, and especially good when you are with him, Mr. Sinclair.

MR. SINCLAIR: Q. Mr. Emerson, have you the question I put to you in mind?

A. The relationship between public convenience and public interest?

MR. MAURO: No, I want to get it ---

MR. SINCLAIR: Just a minute, please, Mr. Mauro.

THE CHAIRMAN: Order, please.

MR. SINCLAIR: Q. You made a distinction on the basis that convenience would be what somebody, for standby purposes or something of that nature, would like to have a train there and I ask you the question, in your opinion when would a number of these conveniences translate to an interest?

A. The best equation for that determination would, in my view, be the relationship between the number



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of people who regarded the convenience as desirable and the number of people who translated that desire into actually travelling on the train involved.

Q. Now, I notice that the equation now bounces back from my friend to the figures you used earlier, and that was the basis that a common denominator was money?

A. Yes, sir.

MR. MAURO: So, public interest is translated into dollars? That is what it is; right?

MR. SINCLAIR: Q. Now, Mr. Emerson, the next question is, what do you think is or is there a distinction in your mind between public interest and public necessity?

MR. FRAWLEY: Of course, now my friend is getting into a world of jurisprudence that has come before the federal power commission, all these utility boards in the United States and several in our own country, as to what those words "public convenience and necessity" mean; whether they are two words or one word. As I said before that is why Alberta does not have that.

THE CHAIRMAN: We will have all that in argument.

MR. FRAWLEY: That is exactly the place for it, sir, but not to ask the witness the difference between public convenience and necessity. It was precisely because I held that view that I spoke.

THE CHAIRMAN: Well, we will make more



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2 headway if we get on with it.

3 MR. MAURO: I would like to point out, Mr.
4 Chairman, that whenever we ask one of the Canadian
5 Pacific Railway's witnesses anything faintly associated
6 with law, my learned friend is quickly to his feet
7 protecting his witness, "that is a matter of law".

8 MR. FRAWLEY: Mr. Chairman, while it is
9 desirable to make headway, it is not desirable, as far
10 as Alberta is concerned, to make headway improperly.

11 THE CHAIRMAN: Well, this witness cannot
12 answer a legal question.

13 MR. SINCLAIR: With due respect, Mr. Chairman,
14 the question originated by Commission counsel, and by
15 Commission counsel, I am sure, in carrying out the
16 wishes of the Commission by asking questions.

17 THE CHAIRMAN: What you are asking is what
18 are the ingredients?

19 MR. SINCLAIR: Of course, sir, and if my
20 friend objects to the Commission getting the information
21 from this witness, that is, of course, their privilege
22 and their right, but Mr. Cooper originated this, and
23 I ---

24 THE CHAIRMAN: You are not asking the witness
25 for a legal opinion?

26 MR. SINCLAIR: Of course not.

27 MR. FRAWLEY: Did Mr. Cooper ask you to find
28 this out? You are saying that, Mr. Sinclair? Surely
29 not.

30 THE CHAIRMAN: Go on, Mr. Sinclair.



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2 MR. SINCLAIR: Q. Well, I always like to
3 help my friends, and if the Commission will allow me
4 to indulge for just a minute in their search for this,
5 Mr. Emerson said, and I will read from page 1834:

6 "Mr. Emerson: A. Well, I am sure that there
7 are many who have given this subject more
8 thought than I have and expressed their ---

9 "Mr. Cooper: Q. Perhaps they are only
10 lawyers and they serve to confuse?"

11 And it was after he said that that the witness
12 I think very graciously said to this Commission, "Well,
13 I will try to give you my thoughts on it", and he was
14 so requested by the Commission.

15 THE CHAIRMAN: Go on, Mr. Sinclair.

16 MR. SINCLAIR: Q. The question is, in your
17 view, Mr. Emerson, is there an equating of the phrases
18 "public interest" and "public necessity"?

19 A. I think public necessity goes beyond
20 public interest, as the term implies. It might be
21 regarded as a public necessity, I think, beyond any
22 doubt that in the city of Ottawa, for example, there is
23 a municipal water system or a sewage system.

24 Q. Yes. In your view, Mr. Emerson, how --
25 what criteria would you use to measure public necessity?

26 A. Well, it seems to me that in the strict
27 sense, a public necessity of itself implies a matter
28 which shows beyond any doubt that it has a need -- the
29 need for national defence, if you will, on one of the
30 coasts, for example.



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2 Q. Well now, Mr. Emerson, I think that we
3 can leave the balance of this matter for such further
4 submissions as the company may wish to make in a
5 summation or argument.

6 Now, I want to now turn to one or two specific
7 matters, and then I would also like to deal with some
8 of the matters raised by the Commission in their
9 questions directed towards you this morning.

10 First, Mr. Frawley at page 18891 of volume
11 114 was dealing with this question of the economic
12 resources of the country and the use of them by
13 different transportation media, and he was dealing with
14 your evidence which is at page 53 and 54 of your precis,
15 and pages 18243 and 18244 of the transcript.

16 You will recall there, Mr. Emerson, you used
17 in your guidepost, as you called it, or bench mark
18 a figure for truck transportation of in excess of 8¢
19 per ton mile. Do you recall this?

20 A. Yes.

21 Q. And Mr. Frawley objected to the use of
22 that and he tried to give you certain suggestions to
23 indicate that that figure was not realistic.

24 The only specific one he gave you was at page
25 18903 of volume 114, where he made reference to agreed
26 charge No. 761, as I recollect it, and I will just
27 check that, if I may.

28 Yes, agreed charge No. 761. After he put
29 this question to you under this agreed charge on fuel
30 from refineries from East Edmonton to Grimshaw -- he



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2 calculated a rate for 342.1 miles, 2.97¢ per ton mile --
3 this transpired:

4 "Mr. Sinclair: What minimum?

5 "Mr. Frawley: There is the rate, Mr. Sinclair,
6 51¢ to move fuel oil from the refineries in
7 East Edmonton to Grimshaw.

8 "Mr. Sinclair: All I asked was, what minimum?

9 "Mr. Frawley: You mean minimum loading?

10 "Mr. Sinclair: Yes, weight.

11 "Mr. Frawley: Look it up and find out."

12 Then, at the next page, to you, Mr. Chairman,
13 I said:

14 "Mr. Sinclair: It is all very well to put
15 to Mr. Emerson an agreed charge rate without
16 a minimum, to say for truck competition. He
17 has not said what kind of truck competition
18 and it may well have been a rate put into
19 effect to meet trucks owned by certain
20 refineries who have not only a cost but take
21 into consideration, too, an advertising value.
22 These are all things that are in the rate
23 that have to be looked at."

24 Now, Mr. Emerson, while it was suggested, I
25 looked it up, and we did turn up the agreed charge and
26 it has been in your possession since last evening?

27 A. Yes.
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Q. And the agreed charge 761 applies to various points and refineries in western Canada?

A. Yes.

Q. Points in Alberta, for instance?

A. Sir?

Q. To points in Alberta?

A. Yes, indeed, from East Edmonton.

Q. Well, now, this question relates to an average branch line, how many miles is that?

A. The average branch line used for the purpose of illustration on page 18243 of the transcript is about 50 miles long.

Q. And the tonnage of the truck involved was by way of load 15 tons, I think, 30,000 pounds?

A. Yes, I think it was a gross vehicle weight of 54,000 pounds, a net weight of about 30,000 pounds.

Q. Yes. Now, under agreed charge 761 it covers movements from the East Edmonton refinery to Mataskawan?

A. Yes, it does.

Q. How many miles is that?

A. It is 42.1 miles.

Q. And under that, what is the minimum weight under the agreed charge and the rate per ton mile?

A. The minimum weight, the 10,000-gallon tank is 80,000 pounds, the revenue per ton mile for this 42.1 mile haul is 4.5 cents.

Q. Now, Mr. Emerson in calculating and



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2 negotiating rates on an agreed charge is the rate per
3 ton mile by truck the factor that is basic to fixing
4 the rate at a different minimum for movement by rail?

5 A. No, in the negotiating of the rate the
6 difference in minimum would certainly have a considerable
7 effect because in the shipment by rail tank car you
8 require the consignee to take delivery in larger quan-
9 tities which may not always suit his convenience.

10 Q. What is the average truck tank load, do
11 you know?

12 A. I do not have the figure offhand but I
13 would suspect 2500, 3000 gallons.

14 MR. FRAWLEY: Of course Mr. Sinclair said
15 this morning Mr. Emerson was not a rate man.

16 MR. SINCLAIR: He just consulted one.

17 MR. FRAWLEY: I am not objecting.

18 MR. SINCLAIR: I did not object to him answer-
19 ing your question, all I did was suggest to Mr.

20 Commissioner Mann that he did not recognize the number
21 of the section in the Act. What was the answer?

22 A. About 3000 gallons.

23 Q. That is about 8 pounds to the gallon?

24 A. Yes, 24,000 pounds.

25 Q. And based on this, Mr. Emerson, and based
26 on your knowledge of trucking -- by the way, I should
27 possibly qualify that before I ask it. Have you any
28 managerial responsibility with respect to trucking?

29 A. Yes, I have.

30 Q. Have you had for some time?



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A. Yes, for several years.

Q. Now, based on your experience and knowledge would you be of the opinion or would you not as to the relationship of an 80,000-pound rate per ton mile for movement by rail would reflect costs?

A. No, I would not think so.

Q. At 30,000 or 24,000 pounds?

A. A very different minimum, yes, sir.

Q. Would you have any idea, Mr. Emerson, as to what the cost of a 24,000-pound truck tank would be for, say, 30 or 40 miles?

THE CHAIRMAN: Per mile?

MR. SINCLAIR: Q. Per ton mile or per truck mile?

A. Well, each case would have to be looked at by itself, but I should think it would be up in the order of seven or eight cents.

MR. FRAWLEY: What is this?

COMMISSIONER MANN: That is per ton mile?

THE WITNESS: Yes, per ton mile.

MR. FRAWLEY: Seven or eight cents per ton mile?

MR. SINCLAIR: 24,000-pound tank.

MR. FRAWLEY: I do not know what that has got to do with that little road from Manning to Grimshaw.

MR. SINCLAIR: It will all be apparent some time.

MR. FRAWLEY: Yes, no doubt we will take care



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2 of it.

3 MR. SINCLAIR: Q. Now, during Mr. Frawley's
4 examination yesterday at page 18903 and in some pages
5 prior to that and subsequent also -- this is in volume
6 114 -- he was dealing there with the question of the
7 submission of Canadian Pacific that the movement of
8 grain to export positions in western Canada was basic
9 to the plant. He first made a comparison between
10 GTM grain in western Canada with GTM passenger service
11 on the system. Do you recall those figures were
12 roughly 11 billion some odd Crow grain to export
13 positions in western Canada to some 10 billion odd
14 GTM passenger system?

15 A. I recall the figures.

16 Q. And he put to you -- I am not being
17 offensive to this, how can you be so silly, in effect,
18 as to say that things that are so close to develop that
19 one as basic to plant and the other as incidental?

20 MR. FRAWLEY: You may use the word silly if
21 you wish.

22 MR. SINCLAIR: Q. How do you so miscon-
23 ceive the situation as to put one basic to the plant,
24 that was 11 billion and one that was 10 billion was
25 incidental or incremental to track. I wonder if
26 you could clarify your position as to why you think
27 this distinction is correct, that one, namely grain,
28 is basic to the plant in western Canada and passenger
29 train service is incidental or incremental or what
30 might be termed a by-product service?



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MR. FRAWLEY: What page number? You surely must have it in front of you?

MR. SINCLAIR: Q. I have 18903 but you came back at it three or four times. You recall the evidence you gave and the questions put?

A. Yes, I do.

Q. Now, would you mind explaining that situation?

A. Well, to put the situation in its proper perspective I think you have to look at it in the same area. Now on the prairie-Pacific rates on Canadian Pacific in the year 1958 the total gross ton miles generated amounted to 40,882,000,000 of which the gross ton miles attributable to the movement of grain to export positions amounted to 11,768,000,000 making grain 28.8 per cent of the total. Now, the movement of passenger cars in the same territory comprised 5,233,000,000 gross ton miles making passenger only 12.8 per cent of the total in that area or less than half that of grain. Perhaps there is one other element that should be borne in mind in looking at the figures in this context and that is the fact that the movement attributed to passenger service here includes ---

Q. What do you mean "here"?

A. In the figures which I have just placed on the record and on the figures which Mr. Frawley used yesterday involved not only the movement of passenger carrying cars but of all other passenger train



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2 cars as they are so defined including cars for the
3 handling of mail and express. Now, in looking
4 ahead to the future as we usually do at Canadian
5 Pacific, the movement of express will not disappear
6 with the discontinuance of passenger train service
7 but will rather become a new operation with the inte-
8 gration of merchandise service. Similarly, mail may
9 well continue to move by train. The Commission may
10 have noted according to a press report in the past week
11 that an experiment is being conducted by the Post
12 Office Department for the movement of mail from Toronto
13 to Quebec in piggyback service. Now, to illustrate
14 what the difference between those two figures means I
15 can give you this breakdown for the year 1959. In
16 the year 1959 the movement of passenger train cars
17 comprised 9,393,000,000 gross ton miles which was
18 13.9 per cent of the total system gross ton miles in
19 that year.

20 Q. How does that compare with the other
21 figure so we will have them together, the 9 billion-odd
22 as against ---

23 A. As against in 1958 10,222,000,000 so
24 there was a decrease of 8 per cent from the year 1958
25 to the year 1959. To go on, taking passenger carrying
26 cars alone, the relationship to total gross ton miles
27 is 9.4 per cent in contrast to 13.9 per cent which I
28 mentioned earlier as comprising all passenger train
29 cars including mail and express.

30 Q. Now, Mr. Emerson, earlier this morning



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Mr. Commissioner Mann asked you certain questions concerning the situation of the railway under its proposal for the solution of the statutory grain rates problem and certain suggestions he made to you. Now, I took down a note and I am sure Mr. Commissioner Mann will understand that I have tried to get it in his words but he can correct it now as he will probably remember better than I how he put this.

COMMISSIONER MANN: I am sure you can improve on my language.

MR. SINCLAIR: Q. I would not try because I am quite sure I could not do it but my note may be deficient. Dealing with the situation as it now exists in relation to grain for export, that was the context he was putting it to you, he said:

"If you deal with this matter in its present concept it would be impossible to raise the rates to a just and reasonable level."

And then later he said that assuming a statute was not there and the rate was capable of moving as are other rates in the rate structure, he suggested that under such circumstances its susceptibility to managerial control would be simply theoretical because you cannot do something about the rates. Now, that was the context of the situation he put to you, Mr. Emerson, and your answer was that if the statutory prohibition was removed you would have to take into account sociological, economic and political -- you agreed that these factors would be a determinant of the rate for the



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2 movement of grain if there was no statute. I may have
3 missed one.

4 THE CHAIRMAN: Historical.

5 MR. SINCLAIR: Q. Yes, historical, socio-
6 gical, economic and political, these would be the factors
7 that would determine the level of the rate if it was
8 free from statutory control. Now, what did you mean
9 by that?

10 A. Well, apparently I have left the wrong
11 impression, I certainly did not mean to convey the
12 thought that those are matters, outside of the economic,
13 that would be taken into account by management. I do not
14 think it is the responsibility of management of a railway
15 to take into account the political factor, if you will,
16 in the setting of freight rates or sociological.

17 Certainly if the statutory restriction were removed
18 and the rates were free to move up, I think they would
19 have to go up and it would bring about some dislocation
20 depending upon how rapidly it took place, how soon it
21 took place and the other conditions which intervene in
22 the meantime in regard to world grain prices and so
23 forth.

24 Q. Mr. Emerson, if the movement of grain
25 from the Bay ports to the Atlantic ports which is within
26 the scope of the managerial discrimination of the
27 railway, is found to be non-compensatory, what action
28 does the railway take and what action is it required to
29 take in relation to that?

30 A. It is required to adjust rates upwards to



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bring them into a compensatory position and it does
so.

MR. FRAWLEY: And what action has it taken,
perhaps that is important?

MR. SINCLAIR: Mr. Frawley was informed by
Mr. Roberts in his precis here that he expected to file
the tariff shortly.



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MR. FRAWLEY: I am talking about over the last ten years or so. You have had managerial discretion for a long time.

MR. SINCLAIR: It was also explained by Mr. Roberts.

MR. FRAWLEY: Mr. Emerson is explaining it now.

MR. SINCLAIR: I must say, Mr. Chairman, I don't mind an interruption by my friend, but if he wants me to go over it and argue the case I will accommodate him.

MR. FRAWLEY: No, no.

MR. SINCLAIR: If the Commission wishes me to do it at this time ---

THE CHAIRMAN: Go on.

MR. SINCLAIR: Thank you, Mr. Chairman.

Q. Mr. Emerson, in the movement of traffic in any given instance, if it is not at a just and reasonable level and the railways take action to put it at a just and reasonable level, and sociological factors are involved, what action is open to the railway to take, and what action does it take as a matter of policy?

A. In regard to sociological factors? Well, I can see no avenue open to the railway company to hold a rate at a figure which is less than cost merely because of representations on account of sociological factors.

Q. Would you think or would you not that it



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2 could adjust the rate below or in relation to a just and
3 reasonable level because of sociological conditions?

4 A. No, I would not think so.

5 Q. Mr. Emerson, assume with me that the
6 movement of sugar beets, because of their short haul in
7 Manitoba, were, because of some changed circumstance,
8 required to bear a larger proportion of transportation
9 charges than heretofore; assume that with me: and as a
10 result this large area of southern Manitoba that grows
11 sugar beets could no longer move their sugar beets to
12 the Manitoba sugar refining company in Winnipeg -- and
13 let me add this, that historically the railways have
14 put in and maintained rates so that the sugar beets
15 could move from southern Manitoba, and assume with me
16 that it would cause undue hardship on the farmers of
17 southern Manitoba if they had to go back to growing
18 wheat for export instead of sugar for the people of
19 Canada. Under those circumstances, as a matter of
20 policy, a just and reasonable rate was under certain
21 circumstances at a level which would not allow the
22 sugar beets to move, what would the railway do with res-
23 pect to the sociological, the historical, the economic
24 and the political ---

25 A. None of those considerations could be
26 taken into account by the railway company as justifica-
27 tion for maintaining a rate at a figure which is less
28 than just and reasonable.

29 Q. Mr. Emerson, can you tell this Commission
30 any reason why in the light of your answer on sugar beets



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and your answer with respect to "At and East" grain there should be different considerations applicable to grain moving from western Canada to export positions?

A. No, I can't, not from the standpoint of the railway company.

Q. Mr. Emerson, Commissioner Mann asked you a question concerning research and cooperation in regard to equipment: do you recall the question?

A. Yes, sir, I do.

Q. And your answer was that you felt in regard to placing equipment orders and to the development of different kinds of equipment on Canadian Pacific -- I think your phrase was that it should be left to the individual company's initiative -- I don't know if that is right, or not. I was having substantial difficulty hearing in this room at that time.

A. "Initiative", I think, in respect of research?

Q. Yes.

A. And I don't disagree with it as far as the placing of orders is concerned for equipment, but I think that is a decision for the individual companies, not necessarily one to be taken in concert.

Q. In the railway equipment field, Mr. Emerson, are manufacturers engaged in research in cooperation with the Canadian Pacific Railway?

A. Yes, sir, they are, very much so.

Q. Are they active in research?

A. Oh, quite. The railway and the railway



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2 supply industry as a whole, of course, employs extensive
3 research techniques and research activities, and Mr.
4 Commissioner Mann mentioned, I believe, the AAR -- the
5 Association of American Railroads -- of which Canadian
6 Pacific is a member. We participate in that sort of
7 thing. That, after all, is the essential body for
8 research on the part of the railways on the North
9 American Continent, to which we subscribe because we
10 interchange and use equipment interchangeably with other
11 railways in the United States and in Canada.

12 Q. I was wondering, for a specific example,
13 seeing the Commission may be interested in this, if the
14 Westinghouse Company and its development and research
15 in regard to the air brake is a good example of
16 technological change over the years?

17 A. That is a very good example.

18 Q. Could we expand that a little further for
19 the Commission, please?

20 A. In the air brake field?

21 Q. Yes. I got into trouble one time trying
22 to do it myself, so I will let you do it.

23 A. Air brakes, of course, have been a feature
24 of railway equipment for a period of many, many years,
25 first developed by George Westinghouse, and while by
26 law and by interchange practice the railways do not
27 operate rolling stock now which is not equipped with
28 air brakes, the general public has no need, and probably
29 is not acquainted with the extent to which air brakes
30 have been improved over the years since their inception,



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2 and they are continually being improved.

3 There are changes in the design of the
4 piping, the brake valves themselves, the progression
5 from what we call the old K triple to the AB, for
6 example, which at the time involved an expenditure
7 of well over \$1 million for research in that field
8 alone.

9 Then, there are improvements in materials.
10 We have new types of brake shoes coming into use which
11 are much better than the old cast iron shoe in the sense
12 they last longer and require less pressure, and they have
13 more desirable braking characteristics.

14 These are a couple of examples of the progres-
15 sion in this field.

16 Q. Have the developments in braking of
17 trains moved forward at the same time as motive power,
18 or behind it -- what is the situation in regard to the
19 effective braking or technological developments in
20 braking in respect of longer and heavier trains as
21 a result of dieselization?

22 A. Well, necessarily, improvements in
23 braking have been spurred on. They have had to keep
24 pace with the increase in length, weight and speed of
25 trains.

26 Q. And is there a technological drag that
27 has to be overcome by research in these matters?

28 A. No, I would say not.

29 Q. Mr. Emerson, one other question was asked
30 by Commissioner Platt, and this is the last point I have



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2 with you. Mr. Commissioner Platt referred to taxation
3 and the relationship of income tax to the capital heavy
4 railway industry, and you have dealt with this?

5 A. Yes, sir.

6 Q. From his question this thought occurred
7 to me, that I think would be of interest to the Commis-
8 sion: you have also said that the railway industry is
9 labour-heavy or labour-intensive?

10 A. Yes.

11 Q. Are there taxation features which bear,
12 or are there not, with particular reference to the fact
13 that the railway industry is labour-intensive?

14 A. Yes, the fact that the railway industry
15 is labour-intensive necessarily attracts expenses which
16 are associated with the employment of labour. One,
17 for example, is the unemployment insurance contributions
18 which comprise a substantial tax contribution, if you
19 will, and which have been increased. There are other
20 elements, perhaps not strictly described as taxation,
21 which are related to the employment of labour and it
22 is hard to know just where to draw the line here
23 between taxation and fringe benefits because some of
24 these things almost merge in between them. I have
25 reference to workmen's compensation which is directed
26 to the employment of labour, and under which the
27 benefits have been increasing in recent years. It
28 is a common practice on the part of provincial legislatures
29 to increase the scope and range of these benefits,
30 and frequently at times to make them retroactive so



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2 that you incur a liability in 1959 for an injury or
3 occurrence that took place perhaps back in 1956,
4 and it is something, of course, which we have to bear.

5 Q. Mr. Emerson, would it be correct
6 relate this back to the point that you discussed with
7 Mr. Commissioner Platt in this way, that the labour
8 intensity of the railway is in part due to the fact
9 it is a service industry but is also due in part to the
10 fact that it does maintain its road property, which
11 was the basis of the answer that you dealt with in
12 regard to Commissioner Platt's question?

13 A. Yes, sir, that is a very apt comparison
14 because there is a parallel situation in that the
15 railways necessarily provide, maintain, and employ
16 the forces to maintain, their own road property, where-
17 as on the other transportation agencies -- waterways,
18 highways, airways -- the fixed facilities are maintained
19 and provided by a government agency.

20 Q. In making your submissions to this
21 Commission, Mr. Emerson, in regard to labour intensity
22 arising from maintenance of the right of way and in
23 regard to the impact of taxation arising from the
24 investment in the right of way, what is your purpose
25 in bringing these facts to the attention of this
26 Commission? What is the purpose of that?

27 A. Well, I merely thought the Commission
28 should be acquainted with the situation in which the
29 railways find themselves -- and I speak here, of course,
30 particularly of Canadian Pacific -- in the manner in



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which these methods of taxation for the raising of public revenues bear so heavily upon us by virtue of our circumstances.

MR. SINCLAIR: Arising out of these, I should say to the Commission when it comes time for summations I will be making some submissions to the Commission.
Thank you, Mr. Emerson.

THE CHAIRMAN: Thank you very much, Mr. Emerson.

MR. EMERSON: Thank you very much.

---Luncheon adjournment.



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--- On commencing at 2 p.m.

THE CHAIRMAN: Order, please. Mr. Frawley?

MR. FRAWLEY: Mr. Chairman, the provinces of Manitoba and Alberta now enter upon a new phase of the Commission's investigation. We now propose to call three witnesses who will challenge the Canadian Pacific Railway Company's cost study with respect to the movement of export grain in western Canada. As a part of that challenge, there will be produced a constructive analysis -- a counter-analysis, I might call it -- of the cost of moving grain to export positions in western Canada.

Those three witness each have a memorandum. The memoranda are not described or identified, other than by number, but I might assist the Commission if I would just put on the record now the names of the witnesses I will produce. The three memoranda in question -- my friend Mr. Sinclair has something to say.

MR. SINCLAIR: Mr. Chairman, in view of the situation which we from the railroads have to meet here, I would ask that these memoranda be introduced individually. The reason I say this is on account of the very short time I have had them and on account of my inability to deal with them as I would wish to deal with them, and as I will deal with them in due course. I have, however, looked at them in a cursory manner and I have some basic points to make that go in some cases to only one, or in some cases to more than one



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memoranda.

It is my position, therefore, that these witnesses should be called individually, and I object to the whole three being put in as one group because I wish to deal with them, and I may say I have certain objections that I am raising in due course as to these memoranda, and I do not think I can do it in an intelligent way by having the whole three filed.

MR. FRAWLEY: Now, I have a very simple answer to make to my friend. These three memoranda are part of one presentation, and they are going in as one presentation. My friend, Mr. Sinclair, my friend, Mr. McDonald may cross-examine in such fashion as they choose. I can assure the Commission that the witnesses will not go on the witness stand other than individually. The first witness will produce his memorandum; the second witness will produce his memorandum; the third witness will produce his memorandum. I am only saying by way of what I thought was a helpful introductory statement that the three submissions are part of the presentation being made by the provinces of Manitoba and Alberta to bring to this Commission its own constructive counter-analysis showing how much it costs to move grain to export positions in western Canada.

THE CHAIRMAN: I think we understand you.

MR. FRAWLEY: Now, the first memorandum is a memorandum which is simply called "Memorandum No. 1 on behalf of the governments of Manitoba and Alberta."



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2 MR. SINCLAIR: Well, Mr. Chairman, I must ask
3 the Commission to rule whether they are going to accept
4 the three memoranda as a group, or whether they are
5 going to call and take them individually, because if
6 they are going to take them as a group, I have something
7 I have to say as a group. And it would be different
8 from what I would have to say individually.

9 MR. MAURO: Well, with respect, Mr. Chairman,
10 I think my learned friend should say it; because this
11 is all part of one presentation.

12 MR. FRAWLEY: Is my friend going to tell
13 the provinces of Manitoba and Alberta how they will
14 present their case? This is the crux of it. We cannot
15 say it any more clearly, Mr. Chairman, than that we
16 are making one presentation.

17 THE CHAIRMAN: Mr. Sinclair, I cannot see
18 any real basis or objection to what is being done here.

19 MR. SINCLAIR: Maybe I can make it clear. A
20 memorandum that is entitled "Memorandum No. 3", which
21 I understood was the one that was going to be proceeded
22 with today, from what my friends told me, says in its
23 second sentence:

24 "The principle goal will be to present an
25 objective determination of the permissive
26 earnings of the company's rail operations."

27 Now, Mr. Chairman, it is, of course, clear
28 that this is the first time this Commission has ever
29 been asked to determine the permissive earnings of
30 the company's rail operation. This is not an issue



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2 which Canadian Pacific or Canadian National introduced
3 to this Commission.

4 Now, there is one matter -- this is fundamental,
5 Mr. Chairman -- that I, acting for Canadian Pacific have
6 one position with regard to the company's permissive
7 rail income -- permissive earnings from rail operation.
8 I have a completely different position and I am dealing
9 with material that may be introduced relative to the
10 cost of moving grain to export positions in western
11 Canada. Now, that is one example.

12 The second one is I do not know who the
13 witnesses are officially, nor do I know ---

14 THE CHAIRMAN: Nor do we.

15 MR. SINCLAIR: No, no. But may I continue
16 to make my point? Nor will I know what qualifications
17 they have to make some of the statements they make,
18 till the I hear the qualifications placed on the
19 record, because there is material in some of this
20 documentation that goes to the expression of opinion,
21 and the relevancy of these opinions and the position
22 of these opinions.

23 THE CHAIRMAN: Well, it is a matter of weight.

24 MR. SINCLAIR: No, not a matter of weight,
25 in my respectful submission. It is a question of
26 qualification, and if the qualification, in my
27 respectful submission, is not there ---

28 THE CHAIRMAN: Then, there is no weight.

29 MR. SINCLAIR: Then, there is no weight,
30 and therefore I will say that the evidence should not



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2 be received and it is for this reason -- and I could
3 go on; I could go on, Mr. Chairman. I want to make the
4 third point. In due course and in due position, it
5 will be my position on behalf of Canadian Pacific to
6 point out to this Commission that the material that
7 I have received either is not complete, and I want to
8 know whether it is complete -- and maybe it is going to
9 be expanded -- and I may have left out two or three
10 pages, I do not know. But if it is complete, what has
11 happened is that perhaps inadvertently large elements
12 of work and cost associated therewith have been left out
13 of the study. Now, this can only develop as you ----

14 MR. FRAWLEY: Whose study? Our study, or
15 your study?

16 MR. SINCLAIR: Your study.

17 MR. FRAWLEY: Our study? We will look after
18 that.

19 MR. SINCLAIR: Just a minute, if you do not
20 mind.

21 These are situations which I would like to
22 raise with the Commission at the appropriate time. I
23 would have done it in this way except that my friends,
24 instead of proceeding as I had anticipated they would
25 have proceeded, they now suggest they are going to put
26 the whole three in, and I suppose they are then going
27 to say, "these three are filed with the Commission; they
28 are now officially filed with the Commission, and we
29 can make reference to them."

30 Of course, I cannot object on that basis; on



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2 some of the grounds I have put forward. I am only
3 dealing with this as a generality.

4 MR. MAURO: I did not want to waste the time
5 of the Commission dealing with the objection of my
6 friend, Mr. Sinclair, but as far as permissive earnings,
7 they have been before this Commission since my learned
8 friend introduced a gentleman by the name of Mr. Smith.
9 And, if you would look at the cross-examination of Mr.
10 Smith by both Mr. Frawley and myself, we very definitely
11 introduced this matter of permissive earnings, not
12 because my learned friend introduced them. There are
13 no rules applying to this Commission that only matters
14 introduced by the Canadian National and the Canadian
15 Pacific are germane.

16 He then talks about perhaps there is some
17 material that is missing, and I can assure him there
18 will be nothing missing that was greater than the
19 missing exhibit 132 when the evidence was first
20 presented. We are going to put in our case the way
21 we see it, and my learned friend can examine as to
22 qualifications. I could put a stenographer on that
23 stand and put the evidence in. The question is the
24 weight the Commission would want to give to that
25 evidence.

26 MR. SINCLAIR: It all depends what he was
27 going to do with the stenographer when he put her in
28 the box.

29 MR. MAURO: We will decide what we will do
30 with that stenographer.



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2 MR. FRAWLEY: When my friend, Mr. Sinclair,
3 says he is addressing himself to the proposition that
4 these memoranda will not be received, then I say it is
5 a pretty serious situation that the governments of
6 Alberta and Manitoba are not allowed to come before
7 this Commission and answer the criticism that is being
8 placed before this Commission with respect to the Crow's
9 Nest Pass grain rates.

10 THE CHAIRMAN: Well, Mr. Sinclair has suggested
11 that at what he calls the appropriate time he will take
12 objection.

13 MR. SINCLAIR: That is right, but I wish
14 them to be done in serriatum, instead of being put into
15 the position of dealing with them in the basket.

16 MR. FRAWLEY: I think it would be helpful
17 to explain to the Commission what my memoranda were.
18 The first memorandum ---

19 MR. SINCLAIR: With respect, Mr. Frawley,
20 I have put a matter to the Commission, and I am asking
21 them to rule.

22 MR. FRAWLEY: To rule as to whether this
23 is going to be received or not? I am waiting for that
24 ruling, too.

25 MR. SINCLAIR: I am asking the Commission to
26 rule on the basis of whether they should be dealt with
27 in serriatum.

28 THE CHAIRMAN: I think before we adjourn to
29 consider this we better see what the issue is. What
30 is the issue, Mr. Sinclair?



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2 MR. SINCLAIR: Mr. Chairman, I have tried
3 to explain the issue. My friend, Mr. Mauro, said that
4 he had put an issue "permissive level of earnings" by
5 cross-examination of Mr. Charles Smith.

6 THE CHAIRMAN: Are you objecting to the
7 three being called together, Mr. Sinclair?

8 MR. SINCLAIR: I say he did not ---

9 MR. FRAWLEY: Call it cost of money. Our
10 answer is cost of money.

11 MR. SINCLAIR: There exactly is it. My
12 friend equates this, and if that is his position, that
13 he is equating permissive level of earnings and cost
14 of money, which he has now indicated -- this is what
15 I was trying to found out, for one thing.

16 THE CHAIRMAN: What do you want us to rule
17 on?

18 MR. SINCLAIR: I wish the Commission to say
19 that of course this matter will be received if the
20 people speaking to it are by qualification and so on
21 able to deal with the matters they have been called for.
22 This is normal. But, there are different witnesses --
23 presumably, three -- and I say that I cannot raise the
24 objection that I am raising and intend to raise if they
25 are put in all at once.

26 I am suggesting that the orderly and proper
27 way to proceed, in view of the objections I have taken
28 -- that large elements of cost have been overlooked,
29 perhaps inadvertently, or that there is -- let me put
30 it another way; I do not want to hide anything from my



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2 friends; I do not want to take them by surprise. There
3 are statements here that require a knowledge of
4 Canadian railway operating conditions specifically, and
5 I wish to listen to the qualifications to see whether
6 the expert testimony which is going to be given is
7 based on the requirement of specific knowledge of
8 Canadian operating conditions.

9 THE CHAIRMAN: Well, I think, Mr. Sinclair,
10 if you are a little patient you will get that
11 information.

12 MR. SINCLAIR: But I am asking, Mr. Chairman,
13 that the whole three are not filed as one. I wish to
14 deal with them individually, and I think I have a right
15 to make these objections.

16 COMMISSIONER MANN: Mr. Frawley, can you tell
17 us whether it is your intention to now file with the
18 Commission the memorandum No. 1 on behalf of the
19 governments of Manitoba and Alberta, and advise the
20 Commission at this time who your witness is and to
21 qualify the witness at this time?

22 MR. FRAWLEY: Yes, as we go along.

23 COMMISSIONER MANN: That is what you want
24 to do?

25 MR. FRAWLEY: Exactly.

26 COMMISSIONER MANN: And, after the witness
27 has presented his evidence, is it your intention to
28 do the same with memorandum No. 2?

29 MR. FRAWLEY: That is right.

30 COMMISSIONER MANN: And then, following that,



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memorandum No. 3?

MR. FRAWLEY: With this exception, Mr. Commissioner Mann, that as a matter of convenience I am taking No. 3, No. 1, No. 2.

COMMISSIONER MANN: That is a matter of sequence?

MR. FRAWLEY: That is the way we see it, yes.

COMMISSIONER MANN: It is not your intention, then, to file all three memoranda at once at this moment?

MR. FRAWLEY: At this moment, no. As a matter of fact, I do not propose to file them. I propose to have the witness read his memorandum into the record.

THE CHAIRMAN: Is that all right, Mr. Sinclair?

MR. SINCLAIR: This is why I was surprised we were starting to deal with one, when I thought we were going to deal with three.

COMMISSIONER GOBEIL: Mr. Sinclair, is your main objection the fact that if they are filed individually reference might be made to some others which are not filed and you would not be able to do it?

MR. SINCLAIR: That is quite right.

COMMISSIONER GOBEIL: That is your main objection?

MR. SINCLAIR: That is my main objection,



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and in view of what Mr. Frawley says to Commissioner Mann, apparently they are going to be filed individually.

THE CHAIRMAN: All we need is patience, Mr. Frawley..



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2 MELVILLE J. ULMER, called

3
4 DIRECT EXAMINATION BY MR. FRAWLEY:

5 Q. Your name is Melville J. Ulmer?

6 A. Yes.

7 Q. I will just read out your personal data
8 and then ask you if you agree with it.

9 Birth: May 17, 1911 in New York City

10 Home Address: 6605 Little Falls Road,
11 Arlington 13, Virginia

12 Marital Status: Married, two children

13 Degrees: BS, MA, New York University;
14 Ph.D. Columbia

15 Present Position: Professor of Economics and
16 Chairman of the Department of Economics, The American
17 University.

18 Present or Recent Auxiliary Positions:
19 Economic Consultant, Pan American Union, Research
20 Associate, National Bureau of Economic Research.
21 Lecturer on Economics, Industrial College of the
22 Armed Forces of the U.S.A. Economic Consultant, Bureau
23 of the Census, Economic Consultant, General Services
24 Administration. Lecturer on Economics, Washington
25 International Center.

26 Employment Record: Chairman of the
27 Department of Economics 1954--; Professor of Economics,
28 1952--; Associate Professor of Economics 1950-1952;
29 Adjunct Professor of Economics, 1948-1950; Lecturer
30



1
2 in Economics and Statistics, 1943-1948, The American
3 University. Fullbright Professorship of Economics,
4 Netherland School of Economics, Rotterdam 1958-59.
5 Research Associate, National Bureau of Economic
6 Research, 1950--. Lecturer on Economics, Industrial
7 College of the Armed Forces of the U.S.A., 1953
8 (Summers)--. Visiting Professor of Economics, Mexico
9 City College, Summer 1950. Editor, Survey of Current
10 Business, U.S. Department of Commerce, 1948-1950.
11 Chief, Financial Organization Section, Office of
12 Business Economics, U.S. Department of Commerce,
13 1946-1948. Assistant Chief, Reports Division, Smaller
14 War Plants Corporation, 1945-1946. Chief, General
15 Price Research Section, U.S. Bureau of Labor Statistics,
16 1940-1945. Journalist, specializing in labor and
17 business news, New York American, 1932-1937.

18 Honors and Professional Societies:

19 Fullbright Lecturer Award, 1958-59. Recipient of
20 \$30,000 grant from National Bureau of Economic Research
21 in 1950 for study of capital formation. Speaker
22 at annual meetings of the American Economic Association
23 (1954). American Statistical Association (1948, 1949
24 and 1956) and Econometrics Society (1949). Visiting
25 lecturer at Graduate Conference on Business Economics
26 at Columbia University, 1948. Member of American
27 Economic Association, Econometric Society. American
28 Statistical Association, Pi Gamma Mu, Honor Scholar-
29 ship (New York University), and the Cosmos Club.
30 Fellow of the American Association for the Advancement



1
2 of Science. Citation for war agency service, Smaller'
3 War Plants Corporation, 1945.
4 Publications:
5 Books and Pamphlets:
6 Economics: Theory and Practice,
7 Houghton Mifflin, 1959
8 Capital in Transportation, Communication
9 and Public Utilities: Its Formation and Financing,
10 National Bureau of Economic Research, Princeton
11 University Press.
12 The Economic Theory of Cost of Living,
13 Index Numbers, Columbia University Press, 1949.
14 Trends and Cycles in Capital Formation
15 by U.S. Railroads, 1870-1950, National Bureau of Economic
16 Research, 1954.
17 Wartime Prices, Part I, Bulletin 749,
18 U.S. Department of Labor, Bureau of Labor Statistics,
19 1944, (Co-author).
20 Small Business and Civic Welfare, Senate
21 Document, No. 136, 79th Congress, 2nd session, 1946,
22 (Co-author), reprinted in Bloom and Selznick's
23 Sociology.
24 Articles:
25 "Some Reflections on the Economic Theory
26 of Power", De Economist, Amsterdam, May 1959.
27 "Autonomous and Induced Investment",
28 American Economic Review, Sept., 1952.
29 "Long Term Trends in the Financing of
30 Regulated Industries", Journal of Finance, Spring 1955.



1
2 "The Consumption Function and the
3 Theory of Aggregation", (abstract), Econometrics,
4 July 1950 Supplement.

5 "On the Economic Theory of the Cost of
6 Living Index Numbers", Journal of the American Statis-
7 tical Association, December, 1946.

8 "The Revolt Against Keynes", The New
9 Leader, May 4, 1953.

10 "Plant and Equipment Programs and
11 Sales Expectations in 1949", Survey of Current Business,
12 April, 1949.

13 "Will a Balanced Budget Ruin us?",
14 The New Leader, September 16, 1953.

15 "Industrial Patterns of the Business
16 Population", Survey of Current Business, April 1947.

17 "Business Turn-Over and Causes of
18 Failure", Survey of Current Business, May, 1948.

19 "Living Costs Since Beginning of Retail
20 Price Control", Monthly Labor Review, July, 1943.

21 "Postwar Business Population", Survey
22 of Current Business, January, 1947.

23 "How to Stop the Depression", The
24 New Leader, June 2, 1958.

25 "Indirect Price Increases", Monthly
26 Labor Review, November, 1942.

27 "Living Costs and Standards", Funk and
28 Wagnalls International Year Book, 1944.

29 "Business Turn-Over and Causes of Failure
30 in 1946", Domestic Commerce, May, 1947.



1
2 "The Business Population Since the End
3 of the War", Domestic Commerce, February, 1947.

4 "Cautious Economist Shuns Soothsaying",
5 The Washington Post and Times Herald, Sunday, July 18,
6 1954.

7 Review of Abramovitz's "Inventories and
8 Business Cycles", The Review of Economics and Statistics,
9 May 1953.

10 Review of Mudgett's "Index Numbers", Journal
11 of Business of the University of Chicago, July, 1959.

12 Review of Ferber's "Statistical Tech-
13 niques in Market Research", Journal of the American
14 Statistical Association.

15 Review of Roose's "The Economics of Re-
16 cession and Recovery", The New Leader, March 21, 1955.

17 Review of "Source Readings in Economic
18 Thought", The New Leader, 1954.

19 Review of Caplow's "The Sociology of
20 Work", The New Leader, September 20, 1954.

21 That memorandum, part of which I have read,
22 reports your professional standing and the publications
23 for which you are responsible?

24 A. Yes, sir.

25 Q. Dr. Ulmer, you were requested by the
26 governments of Manitoba and Alberta to address your-
27 self to the preparation of a memorandum for presentation
28 before this Commission having to do with certain aspects
29 of the cost analysis of moving western grain which has
30 been undertaken by R. L. Banks and Associates in
Washington?

A. Yes, sir.



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Q. And you did, in discharge of that commitment, prepare a memorandum?

A. Yes, sir.

Q. You have that memorandum with you?

A. Yes.

Q. Will you please put it into the record which means, in short, will you please read it into the record?

A. Yes, sir.

MR. SINCLAIR: Mr. Chairman, before Dr. Ulmer starts to give evidence I wish to draw to the attention of the Commission that my friend Mr. Mauro stated that the issue of permissive level of rail earnings has been raised by him in his cross-examination of Charles W. Smith. Now, I have not the record of Mr. Smith's evidence before me but I do know that in the separation of rail and non-rail Canadian Pacific and in the apportionment of various securities debt and equities in the rail enterprise as determined by the Board of Transport Commissioners and as explained pursuant to specific requests of Messrs. R. L. Banks and Associates presumably brought to the attention of the witness, that the proposals now attached in the memorandum are materially different than the basis of the determination of securities to represent investment in rail enterprise.

Point No. 1: this is not an issue that has anything to do, in my respectful submission, with the cost of money unless, and it is not in the memorandum,



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2 it is the position of Dr. Ulmer to consider debt
3 equity ratios appropriate and necessary for the rail
4 enterprise of Canadian Pacific. My second point is
5 that the memorandum proceeds, as has been indicated by
6 the second sentence of the memorandum to which I
7 referred earlier and to the statement of learned counsel
8 from Alberta, Mr. Frawley, on the basis that he is not
9 dealing with anything but permissive level of earnings,
10 cost of money, call it whatyou will -- that is his
11 position.

12 My position is that this is not other than an
13 inquiry into the permissive level of earnings of the
14 rail enterprise of Canadian Pacific which is presently
15 under reserve, specifically under reserve by the Board
16 of Transport Commissioners. This level of the
17 permissive level of earnings of Canadian Pacific has
18 been raised with the Board of Transport Commissioners
19 by application and is under reserve by statement of
20 the Board itself. It is, of course, clear that this
21 Commission is not by this Order in Council to perform
22 the functions of the Board of Transport Commissioners.
23 The reason why the level of permissive rail income of
24 Canadian Pacific is under reserve by the Board of
25 Transport Commissioners is by government directive
26 the freight rates have been frozen pending this
27 inquiry's report. My position is, therefore, that by
28 introducing evidence as to the permissive level of
29 net rail income of Canadian Pacific my learned friends
30 are bridging the jurisdiction of the Commission.



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MR. FRAWLEY: Will you please continue, Dr. Ulmer?

MR. SINCLAIR: Just a minute, I think you should at least not show your -- pardon me for saying it, show your boldness by not waiting for the Commission.

MR. FRAWLEY: I just had no reply, that is all.

MR. SINCLAIR: You may let the Commission speak at least be courteous enough to allow the Commission to speak.

MR. FRAWLEY: Will you please continue, Dr. Ulmer?

MR. SINCLAIR: I have an objection on which I have asked the Commission for a ruling.

THE CHAIRMAN: Well, your objection would rule out the entire memorandum?

MR. SINCLAIR: Of course.

MR. FRAWLEY: May I continue, Mr. Chairman?

THE CHAIRMAN: Well, speak to the motion.

MR. FRAWLEY: If the Commission is ruling out the memorandum then we are prepared to accept the ruling and just see what happens from there.

MR. MAURO: That is right, we have nothing to say.

THE CHAIRMAN: We will adjourn for five minutes.

---Short recess.



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2 THE CHAIRMAN: The objection raised by Mr.
3 Sinclair is overruled and Mr. Frawley will be permitted
4 to proceed. We feel that cost of money is really in-
5 volved and while we have no intention whatever of
6 invading the Board of Transport's jurisdiction we
7 feel that since it was raised in the first place by
8 the Canadian Pacific that there is a right to reply.

9 MR. SINCLAIR: Of course, if I may say so,
10 I do not understand the Commission's ruling. Is it
11 the Commission's ruling that cost of money was raised
12 by Canadian Pacific and that, of course, I agree with
13 that because we certainly did but the permissive
14 level of rail income was not raised by Canadian
15 Pacific.

16 THE CHAIRMAN: Well, there may be objection,
17 Mr. Sinclair, to the language used but in any event
18 we are going to receive the evidence.

19 MR. SINCLAIR: I quite understand that, sir,
20 and I of course bow to your ruling but what I am trying
21 to understand so I can follow ---

22 THE CHAIRMAN: I can only repeat what I
23 said before that it is a question of weight.

24 MR. SINCLAIR: This may well be, sir, but
25 if you will pardon me, what I am asking the Commission
26 to assist me in so I might follow the evidence -- I
27 may not be putting it very well, Mr. Chairman, but
28 cost of money is in issue, of course, I agree with
29 that. That is what you said, Canadian Pacific
30 introduced the question of cost of money but am I to



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take it that what the Commission is saying is that the question of the permissive level of net rail income by Canadian Pacific is not in issue?

MR. FRAWLEY: Oh, no.

MR. SINCLAIR: Is the Commission then saying it is in issue?

THE CHAIRMAN: We have made our ruling, Mr. Sinclair.

MR. SINCLAIR: Of course, I must say that I regret it will be impossible for me then to follow except I do have to object every time I hear permissive net rail income and ask the Commission to rule again. If you give me the ruling now I will not have to do that.

MR. MAURO: Just the same as we objected every time you introduced cost of money.

MR. SINCLAIR: The Commission is receiving the evidence on the permissive level of net rail income.

THE CHAIRMAN: We stay by our ruling.

MR. SINCLAIR: Would the Commission assist me, I am sorry I have to press this but would the Commission assist me by informing me if they would, please, is the Commission receiving evidence on the permissive level of net rail income of Canadian Pacific?

MR. FRAWLEY: Before anything is said ---

MR. SINCLAIR: That is not directed to you, it is directed to the Commission.

MR. MAURO: I just want to say one word on this.



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2 MR. SINCLAIR: Please, Mr. Mauro, I have
3 directed a question to the Commission.

4 THE CHAIRMAN: Well, Mr. Mauro?

5 MR. MAURO: This is in Volume 21 of January
6 18, Mr. Mauro's cross-examination of Mr. Smith and it
7 is page 2934:

8 "Q. I have calculated this figure out.
9 6.5 per cent on the net railway investment
10 would return to the C.P.R. \$93,609,729,
11 and with reference to the Board of Transport
12 Commissioners' Judgment and Order dated
13 November 17th, 1958, I see that they have
14 calculated as the permissive level of earn-
15 ings for Canadian Pacific, 1959, at
16 \$55,225,000. Under your proposed plan
17 that would mean a difference to the
18 Canadian Pacific Railway of somewhere in
19 the neighbourhood of \$39 million?

20 "A. ~~From~~ the figures you have given, that is
21 correct. Do you want me to comment on
22 it or stop there?

23 "Q. My final question is: there is little doubt
24 that what you are suggesting is that the
25 present requirements formula be suspended
26 and that we introduce a rate base rate of
27 return?

28 "A. That is not so. I don't care how it is
29 worked out. I would say that the capital
30 of this country and the United States will



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erode away unless it is integrated and protected, and if it is not protected you are not going to get new capital to do the jobs that ought to be done unless you pay the going rate for money. It is as simple as this to me.

"Q. But in your opinion the Board of Transport Commissioners should adjust their permissive rate of earnings from 55 million to 93 million?

"A. We are talking about different times, of course, but in general what you say is correct."

MR. SINCLAIR: Very well, Mr. Chairman, that may be before the Commission but I say -- it is there, he has read it but I say that this Commission in view of its terms of reference ---

THE CHAIRMAN: Well, you should not have brought it in.

MR. SINCLAIR: I should not have brought it in?

THE CHAIRMAN: No.

MR. SINCLAIR: With all respect, I did not raise the question, Mr. Mauro did. I am amazed, Mr. Chairman, that you would say to me that I should not have brought it in. I have on numerous occasions to you and to the Commission made a distinction between cost of money and permissive level of earnings.

THE CHAIRMAN: The Commission wants to be



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2 patient but we must get on with the work and we have
3 ruled.

4 MR. SINCLAIR: Would the Commission then
5 answer one question I have put and I would ask it again
6 with all deference and respect. I am asking, is the
7 Commission receiving as an issue the question of per-
8 missive level of net rail income?

9 THE CHAIRMAN: We are not invading the
10 jurisdiction of the Board of Transport, we are not fixing
11 permissive level.

12 MR. SINCLAIR: Thank you, Mr. Chairman.

13 MR. FRAWLEY: Q. Dr. Ulmer, will you now
14 proceed with the reading of your memorandum?

15 A. This memorandum is a precis of the
16 third and final study by which the Governments of
17 Manitoba and Alberta present their estimates of the
18 cost to the Canadian Pacific Railway of handling
19 Crow's Nest Grain. The principal goal will be to
20 present an objective determination of the permissive
21 earnings of the company's rail operations.

22 MR. SINCLAIR: I object.

23 THE CHAIRMAN: Whenever the term "permissive
24 level of earnings" is used throughout we will take it
25 that there is an objection from Mr. Sinclair.

26 MR. SINCLAIR: I am also objecting to the
27 "objective determination" -- "the principal goal will
28 be to present an objective determination --"

29 MR. FRAWLEY: The only thing I object to is
30 if my friend is going to do that it is a little unkind



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to the witness but we will have to put up with it.

MR. SINCLAIR: I take it that my objection is noted and I do not have to repeat it.

MR. FRAWLEY: You do not have to say that, it is being taken down, every syllable, by the court reporter. All right.

A. The discussion is centered in seven parts: (1) Existing Fixed Charges, (2) The Existing Cost of Equity Capital, (3) Permissive Fixed Charges, (4) Permissive Dividends, (5) Permissive Earnings for Retention, (6) A Note on the CPR Memorandum, and (7) Conclusion. At several points the views expressed here shall be compared, and in most cases contrasted, with those contained in A Memorandum Regarding Cost of Capital presented by the Canadian Pacific Railway, hereinafter referred to as the CPR. Memorandum.

PART I. Existing Fixed Charges

Fixed charges must of course be covered in full, assuming, as is justified in this case, that the underlying obligations had been assumed in the pursuit of legitimate business objectives by a reasonably prudent management. The entire fixed charges of the Canadian Pacific Railway during 1959 are presented in column A of Table 1, attached to the rear of the textual portion of this report. Those fixed charges which are attributable to rail operations are given in column B of the table.

MR. SINCLAIR:

The distribution herein set out is substantially contrary to the Board's basis which it has fixed and



determined by its Judgments, and if there is to be a change it is under reserve.

THE CHAIRMAN: All of which we will take note of.

Table No. 1
Manitoba-Alberta
Memorandum No. 3
Exhibit No. _____

MANITOBA AND ALBERTA
Fixed Charges of the Canadian Pacific Railway

	Total in 1959 "A"	Attributable to Rail Operations* in 1959 "B"
1. Rent for Leased Lines	\$1,592,104	\$1,592,104
2. Perpetual 4% Consolidated Debenture Stock	7,537,314	6,828,787**
3. Equipment Trust Certificates	1,979,905	1,979,905
4. Aircraft Purchase Notes	413,081	-
5. Collateral Trust Bonds	5,479,995	4,964,875**
6. Guaranteed Interest	37,951	37,951
7. Interest on Unfunded Debt	7,098	6,431**
8. Amortization of Discount on Funded Debt	<u>387,665</u>	<u>351,224**</u>
9. Total Fixed Charges	\$17,435,113	\$15,761,277

* Including Communications

** Obtained by reducing the corresponding item in column (a) by 9.4 per cent. This factor was.



1
2 obtained by calculating the value of the fraction
3 the numerator of which is the property value of
4 hotels, steamships, aircraft and "Other Properties"
5 (\$204,711,538) minus the value of Aircraft Purchase
6 Notes outstanding (\$6,722,977) and the denominator
7 of which is the property value of Railway and
8 Communications (\$2,144,768,224) minus the value of
9 Equipment Trust Certificates (\$47,337,000), all
10 data as of December 31, 1959.

11 Source: 1959 Annual Report, Canadian Pacific
12 Railway Company.

13 Items 1, 3 and 6 are carried over in full
14 from Column A to Column B since they are entirely attri-
15 butable to rail operations.

16 MR. SINCLAIR: Again I object because it is
17 contrary to the Board of Transport Commissioners after
18 full inquiry.

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2 THE WITNESS: I am indicating here the
3 allocation of total fixed charges of the company to
4 rail operations.

5 Item 4 is omitted entirely in column B,
6 since it is entirely attributable to non-rail
7 operations. Items 2, 5, 7, and 8 in column A were
8 reduced by 9.4 percent before transference to column
9 B to allow for the non-rail portions of these fixed
10 charges. The formula used to derive the 9.4 percent
11 factor is given in the footnote to Table 1.

12 I will read this: This 9.4 percent factor
13 was obtained by calculating the value of the fraction
14 the numerator of which is the property value of hotels,
15 steamships, aircraft and "other properties" minus the
16 value of aircraft purchase notes outstanding and the
17 denominator of which is the property value of railway
18 and communications minus the value of equipment trust
19 certificates, all data as of December 31, 1959.

20 MR. SINCLAIR: Again, Mr. Chairman, this is
21 contrary to the Board's determination and contrary
22 to the basis of what was requested of Canadian
23 Pacific and supplied to my friends.

24 THE CHAIRMAN: We have noted what you say
25 and under the circumstances, Mr. Sinclair, I think
26 it would have been well if you had notified either
27 my learned friends or the Commission that you were
28 taking this objection to the material.

29 MR. SINCLAIR: If I had had it in reasonable
30 time in accordance with the jurisdiction of this



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2 Commission's ruling, then I would have had time to
3 study it, but I was asked certain specific questions
4 which I had answered to my friends as to the proper
5 basis under the Board's judgment. I gave it to them,
6 and it was with considerable surprise I found they
7 were not being done in that way, and I certainly,
8 Mr. Chairman, must say that I object if that was
9 meant as a criticism of Canadian Pacific for not
10 informing my friends, because we have waited for a
11 year ---

12 THE CHAIRMAN: There is no use in your
13 being touchy here at all, Mr. Sinclair. I only want
14 to say to you very frankly that in view of all the
15 objections you have raised since 2 o'clock that they
16 might have been advised, and my friends probably could
17 have been advised. We want to get on with this job
18 and we have had a good ---

19 MR. SINCLAIR: I am very sorry if you feel
20 you are under any misapprehension as to our distinction
21 between permissive level of the net rail income and
22 cost of money, because nothing could have been clearer
23 than our position on that matter since the start.

24 MR. MAURO: The transcript is clear.

25 MR. SINCLAIR: But, I will accept your
26 criticism and will try to alleviate it.

27 THE CHAIRMAN: I will not refrain from
28 criticism when I feel I should.

29 MR. SINCLAIR: Of course not, sir, and that
30 is why I said I would accept it and take note of it



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2 and try to cooperate with my friends in the future.

3 THE WITNESS: The question of whether these
4 fixed charges are likely to change in some predictable
5 way in the year or two ahead is deferred until Part
6 III.

7 Part II. The Existing Cost of Equity Capital

8
9 Table No. 2
10 Manitoba-Alberta

11 MANITOBA AND ALBERTA
12 Net Earnings of the Canadian Pacific Railway
13 After Depreciation and After Taxes
14 Before Fixed Charges

	<u>1959</u>	<u>Annual Average 1957-1959</u>
Railway	\$36,046,293	\$36,928,174
Communications and Other Income Applicable to Rail.	<u>2,557,975</u>	<u>2,314,063</u>
Total Rail	\$38,604,268	\$39,242,837
Non-Rail	10,119,776	14,147,647
Grand Total	<u>\$48,724,044</u>	<u>\$53,380,484</u>

22 Source: Annual Reports of the Canadian Pacific Railway
23 to Stockholders and to the Board of Transport
24 Commissioners.

25 In Table 2, attached to the rear of this
26 report, I present the earnings of the Canadian Pacific
27 Railway in 1959, after depreciation and after income
28 taxes, but before the payment of fixed charges. These
29 earnings are distributed between rail and non-rail
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activities in accord with the Board of Transport Commissioners' classifications.

MR. SINCLAIR: I object to that. That is not the basis of the Board's classification of accounts and distribution.

THE WITNESS: For comparison, earnings similarly figured and classified are also given in the table for the period 1957 through 1959, on an annual average basis. It will be noted that rail earnings in 1959 were slightly (1.7 percent) below their average level during 1957-1959, while non-rail earnings were lower in 1959 by fully 28 percent. The total earnings of the company in 1959 were 9 percent below the 1957-1959 average.



Table No. 3
Manitoba-Alberta

MANITOBA AND ALBERTA
The Existing Cost of Equity Capital
Canadian Pacific Railway
1959

	<u>Total</u> (A)	<u>Attributable to</u> <u>Rail Operations</u> (B)
Dividends		
Preference Stock	\$ 3,029,053	\$ 2,211,209
Common Stock	<u>21,497,897</u>	<u>15,693,465</u>
Total	\$24,526,950	\$17,904,674
Retained Earnings	<u>6,761,981</u>	<u>4,938,317</u>
Total Net Earnings		
After Fixed Charges	\$31,288,931	\$22,842,991

Source: Total net earnings after fixed charges derived by deducting total fixed charges in 1959 for the entire company and for rail operations, shown in Table 1, from net earnings after depreciation and after taxes, before fixed charges, in 1959 for the entire company and for rail operations, respectively, shown in Table 2. The breakdown of total net earnings into preference stock dividends, common stock dividends, and retained earnings was obtained from the 1959 Annual Report of the Canadian Pacific Railway. The similar breakdown in Column (B) was obtained by proportionate allocation; that is, the ratio of each item in Column (B) to the corresponding item in Column (A) is the same as the ratio of



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2 THE WITNESS: In column A of Table 3, I
3 present the total net earnings of the Canadian Pacific
4 Railway in 1959, after payment of fixed charges,
5 distributed among preference stock dividends (payable
6 at 4 percent), common or ordinary stock dividends
7 (paid at \$1.50 per share), and the remainder, or
8 retained earnings. The grand total, or \$31,288,931,
9 may be termed the cost of all the equity capital
10 employed during the year. However, particular interest
11 attaches here to the cost of equity capital employed
12 for rail operations, given in column B of the table.
13 The total cost of the equity in rail, \$22,842,991,
14 was obtained by deducting the total fixed charges
15 attributable to rail (\$15,761,277), shown in Table 1,
16 from the net earnings attributable to rail (\$38,604,268),
17 shown in Table 2. The allocation of these rail earnings
18 to preference stock, common stock, and retained earnings
19 was made on a proportionate basis.

20 MR. SINCLAIR: I note there, Mr. Chairman,
21 that, as you no doubt will recall, that the suggestion
22 of an allocation of preference stock requirements and
23 dividends was held by the Board not to be a proper
24 allocation and that all preferred stock under the
25 Board's formula is cheap money.

26 MR. FRAWLEY: Mr. Chairman, I just want to
27 say once and I will not get up and repeat it, but I
28 do not want the Commission to think that because I
29 am not answering my friend's continuous objections that
30 I am accepting what he says. Quite the contrary. I



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am getting along with the presentation of this brief.

THE CHAIRMAN: Subject to the objection of Mr. Sinclair.

THE WITNESS: That is, for each item such as preference stock dividends, common stock dividends, etc., the proportion which rail earnings bears to total earnings (73%) was allocated to rail.

It is significant that even though 1959 was a poorer than average year, net returns were sufficient, after meeting all obligations to stockholders, to provide 6.8 million dollars for retained earnings, nearly 5 million dollars of which were contributed by rail operations.

MR. SINCLAIR: I will recall to the Commission, so that you may get my position perhaps a little more clearly that this proportionment is an application of what is known as the Eagan formula.

THE CHAIRMAN: We have heard of that.

MR. SINCLAIR: And held not to be proper by the Board.

Part III. Permissive Fixed Charges

It is often said that earnings must be sufficient (1) to protect an enterprise's "financial integrity," and (2) to "attract capital." It is so stated in the C.P.R. memorandum, although no concrete effort is made therein to interpret these criteria. In this section we shall begin to inquire into their meaning with particular reference to the Canadian



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2 Pacific Railway, for it is almost certain that no
3 single interpretation would suit all possible cases.
4 In general, however, the first of these criteria
5 (financial integrity) can only imply that a firm's
6 earnings must be (1) sufficient to meet the legitimate
7 claims of creditors and (2) sufficient, on the average,
8 to satisfy the reasonable expectations of typical
9 stockholders. How much in earnings does this imply
10 for the rail operations of the Canadian Pacific
11 Railway?

12 As regards the satisfaction of creditors,
13 the question is easily answered. Earnings above all
14 expenses, including depreciation, must be available to
15 meet the fixed charges of \$15,761,277, as given in
16 Table 1. Under some circumstances an adjustment might
17 be required to allow for changes, either upward or
18 downward in this amount, occasioned by the need for
19 refinancing some element of the underlying debt. In
20 the present case this is not a consideration of great
21 quantitative importance. Referring to Table 1, none
22 of the elements of indebtedness, except for certain
23 equipment trust certificates, are due to mature before
24 1966. Equipment trust certificates have been maturing,
25 serially, at the rate of approximately 8 million dollars
26 per year. Assuming that new certificates may need to be
27 issued in place of the retired ones, by how much, and
28 in what direction, will fixed costs change?

29 In the CPR memorandum much stress has been
30 placed upon the substantial rise in interest rates over



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2 the last several years. Such emphasis would be
3 justified only if it appeared likely that the Canadian
4 Pacific Railway would be required to seek substantial
5 new debt capital in the open market -- a possibility
6 we shall deny later. Nevertheless, it is worth noting
7 that over the past 12 months the rise in interest rates
8 has been significantly reversed, and some authorities
9 have expressed the judgment that their peak has been
10 definitely passed and that the downtrend will continue.

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MANITOBA AND ALBERTA
Recent Trends in Interest Rates
October, 1959 - September, 1960

Date	Government Securities		Prime		Corporate Bonds, U.S.		
	Canadian 3-Month Bills	U.S. 3-Month Bills	U.S. Long-Term Bonds	Commercial Paper, 4- to-6 Months, U.S.	Industrial	Rail- Road	Public Utilities
1959							
Oct.	5.05	4.12	4.11	4.73	4.70	4.96	4.95
Nov.	4.87	4.21	4.12	4.67	4.69	4.99	4.86
Dec.	5.02	4.57	4.27	4.88	4.70	5.05	4.86
1960							
Jan.	4.81	4.44	4.37	4.91	4.74	5.08	4.92
Feb.	4.69	3.95	4.22	4.66	4.71	5.05	4.89
Mar.	3.87	3.44	4.08	4.49	4.64	4.99	4.79
Apr.	3.40	3.24	4.17	4.16	4.61	4.97	4.70
May	2.87	3.39	4.16	4.25	4.65	4.98	4.76
June	2.87	2.64	3.99	3.81	4.64	4.94	4.76
July	3.13	2.40	3.86	3.39	4.61	4.90	4.71
Aug.	n.a.	2.29	3.79	3.34	4.49	4.82	4.53
Sept.*	n.a.	2.55	3.84	3.25	4.45	4.79	4.46

1/ Rate on new issues.

2/ Bonds maturing or callable in 10 years or more.

* First week of month only.



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2 THE WITNESS: In Table 4 I show the substantial
3 decline that has taken place in interest rates since
4 their peak in the autumn of 1959.

5 Thus, the rate on 3-month treasury bills in
6 the United States declined from its peak of 4.57 percent
7 in December 1959 to 2.55 percent in September 1960, a
8 reduction in the rate of 45 percent. From October 1959
9 until July 1960 (the latest date for which the Federal
10 Reserve Bulletin published figures), the similar rate in
11 Canada dropped from 5.05 percent to 3.13 percent, a decline
12 of nearly 40 percent.

13 In August, incidentally, there was a further
14 decline to 2.53%; that is, a decline in this rate from
15 3.13% in July to 2.53% in August, which brings the rate
16 in Canada to about the same level it is now in the
17 United States.

18 The reduction in the short-term rate paid by
19 business (on prime commercial paper) was almost as large;
20 moving from a peak of 4.91 percent in January 1960 to
21 3.25 percent in September. The response of long-term
22 rates to an easing of monetary conditions is usually
23 slower, but even so by September the reductions were
24 significant. For example, the yield on railroad bonds
25 dropped from its peak of 5.08 percent in January 1960 to
26 4.79 percent nine months later. The declines over the
27 same period were proportionately about the same for
28 industrial and public utility bonds but considerably
29 greater for the long-term bonds of the U.S. federal
30 government.



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2 Despite these substantial reductions in so
3 brief a period, it is likely that if the Canadian Pacific
4 Railway were required to refinance some of its equipment
5 trusts over the next 12 months, it would be required to
6 assume a higher interest charge than the average rate
7 of about 4 percent on existing certificates.

8 MR. SINCLAIR: My position there is that no-
9 where in the qualifications is there anything to allow
10 expert opinion on Canadian financing of Canadian
11 Pacific, and judgment analysis of them, to make such a
12 statement. It may be that Dr. Ulmer can guess we can
13 finance at $4\frac{1}{2}$, but if he had looked at the C.P.R.
14 financing ---

15 MR. FRAWLEY: The ordinary counsel does not
16 get up and make statements of that sort. He cross-
17 examines when the time comes.

18 MR. SINCLAIR: I am objecting on the basis
19 there is no qualification ...

20 THE CHAIRMAN: We note your objection.

21 MR. SINCLAIR: ... of the witness by learned
22 counsel for Manitoba and Alberta.

23 THE WITNESS: I would estimate a probable
24 increase of one-half of one percent in the necessary
25 interest charge on the new debt capital as compared with
26 the old; over a two-year period, if 8 million dollars
27 per annum of maturing certificates were reissued, the
28 probable addition to fixed charges at the end of two
29 years would be about \$80,000. Adding this sum to the
30 total of fixed charges actually attributable to rail



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Ulmer, dir.
(Frawley)

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earnings in 1959 would bring the total of permissive earnings for fixed charges up to \$15,841,277.

--- A short recess ---



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THE CHAIRMAN: Order, please.

MR. FRAWLEY: Q. Yes, Dr. Ulmer, I think you had reached Part IV of your submission.

A. Yes, sir.

Part IV. Permissive Dividends

I shall discuss here the magnitude of returns that may be considered permissive on the outstanding equity securities of the Canadian Pacific Railway. I shall assume that preserving the financial integrity of the company means keeping faith with the reasonable expectations of stockholders, within the limits set, of course, by the company's concomitant responsibility to meet the nation's demand for service at a reasonable cost. For the holders of preferred securities, applying this criterion means simply paying the prescribed dividend of 4 percent. The amount of such dividend payments attributable to rail earnings has already been given in Table 3 as \$2,211,209.

In the case of common stocks there is, of course, no contractual obligation, either conditional or otherwise, to pay dividends of a particular magnitude, as there is for preferred stocks. Nevertheless, for securities of certain types, it is sensible to recognize that there is an expected yield upon which both the stock-owners and the market in general count. This is particularly true of great companies, regulated by public authority, such as the Canadian Pacific Railway, some of the larger and more stable railroads in the



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United States, the larger electric and gas utilities, and some other regulated concerns. Such securities are purchased primarily for the relatively safe and steady incomes they yield rather than primarily for "growth" or for possible large but uncertain speculative gains.

Such observations, at least, are borne out by the record. Over the last 10 years -- that is, from 1950 to 1959 inclusive -- the Canadian Pacific Railway has paid a dividend of \$1.50 per share regularly, except for one year (1956) in which \$1.75 was paid. A practice of this kind itself enlists the type of investor described in the previous paragraph. We must assume that the vast majority of owners have purchased and hold the Canadian Pacific Railway common stock in the expectation of a dividend of about the same magnitude as has been paid so regularly in the past.

It should be noted that in 1959 the CPR common stock was priced in the market at a level very close to its par value, and that its yield of 6 percent at that price was materially greater than that prevailing for the average railroad common stock in the United States. The yield of the 25 railroad companies regularly tabulated by Moody's Investors' Service amounted to only 4.6 percent in 1959. Finally, we may note that the value of the CPR common stock has over the past 20 years behaved considerably better than the average railroad security in the United States. This is shown in Table 5.



Table No. 5
Manitoba-Alberta

MANITOBA AND ALBERTA
Common Stock Prices of the
Canadian Pacific Railway and all U.S. Railroads

Actual Prices of
Canadian Pacific Railway Index Nos. 1941-43 = 10

<u>Year</u>	<u>High</u> (1)	<u>Low</u> (2)	<u>Average</u> (3)	<u>Can. Pac.</u> (4)	<u>U.S. Railroads</u> (5)
1941-43	11-5/8	3	6	10.0	10.0
1945	20-1/4	10-3/4	15	25.3	18.2
1950	22-3/8	13-5/8	18	29.4	15.5
1955	35-1/2	28-1/4	32	52.1	32.9
1960*	27-5/8	22	25	40.8	31.6

* From January through September.

1/ Simple averages of the highs and lows shown, except for the first figure in this column which is an average of the highs and lows in each of the three years from 1941 through 1943.

Source: Canadian Pacific from Wall Street Journal and U.S. Railroads from Standard and Poor's Corporation.



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2 THE WITNESS: For comparative purposes, the
3 price of the Canadian Pacific Railway common has been
4 expressed in column 4 of this table as an index number,
5 with the average for the years 1941-1943 taken as 10,
6 following the method employed by the Standard and Poor's
7 Corporation. The index shows that the price of Canadian
8 Pacific common in 1960 was more than four times its
9 average level in 1941-1943. Over the same period, we
10 see in column 5, the average value of all railroad
11 common stocks in the United States had tripled.

12 We may conclude that continued payment of
13 \$1.50 per share dividend by the Canadian Pacific Railway
14 would in no sense break faith with its stockholders
15 or impair its financial integrity.

16 MR. SINCLAIR: I object, again, on the basis
17 of the qualifications not being established.

18 THE WITNESS: On the assumption that such
19 payments will in fact be continued, permissive earnings
20 for common stock dividends may be taken as the same as
21 that provided for this purpose from rail earnings in
22 1959, as given in Table 3, or \$15,693,465. Naturally,
23 the earnings of no firm may be predicted, or controlled,
24 with exactitude, and some margin of safety is necessary
25 in order to protect such dividends, this margin is
26 provided for, automatically, by the considerations
27 which occupy the following section.

28 Part V. Permissive Earnings for Retention

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30 Some experts have contended that regulated



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2 companies should be permitted no earnings above that
3 required to pay fixed charges and dividends.

4 For example, Eli Winston Clemens (in
5 Economics and Public Utilities, Appleton, 1950, p.224)
6 states, "The inclusion within the allowable return of
7 a certain amount, in excess of dividend requirements,
8 to be credited to surplus is of doubtful propriety."
9 However, if the procedure advocated by Clemens were
10 followed in the case of an expanding firm, or in a
11 period of inflation, it would be necessary to permit
12 a gradually growing volume of earnings in order to
13 pay the charges on new debt and/or new equity capital
14 as the concern acquired additional creditors and
15 stockholders. For if no earnings for retention were
16 permitted -- and this is what Clemens advocates --
17 the regulated company would be in constant need of
18 outside capital. Indeed it is possible that the
19 earnings allowed would have to be increased by amounts
20 even larger than that required to provide for the
21 expanded capital base; for unusually high returns
22 are sometimes required to attract new capital in
23 substantial amounts.

24 The opinion of Mr. Clemens, however, is a
25 minority view, both in the courts and in utility
26 commission practice. I have cited it here merely to
27 show that the need for "attracting capital" on a
28 large scale would be present only if his procedure were
29 followed. In most regulated industries, earnings are
30 in fact allowed to provide for all or for a substantial



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part of the requirements for investment in additions
and improvements. That this has been the practice in
United States regulation of the railroads is shown
by the data in Table 6.

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MANITOBA AND ALBERTA

Rate of Internal Financing, All U. S. Railroads
Percentages of Total Capital Requirements Financed
by Depreciation Charges and Retained Net Earnings

Table No. 6
Manitoba-Alberta
Memorandum No. 3

Date	Total Capital Requirements	Depreciation Charges	Retained Earnings	Total	
				Internal Financing	External Financing
1880-1890	100	0	2.4	2.4	97.6
1893-1907	100	0	9.5	9.5	90.5
1907-1916	100	13.2	29.7	42.9	57.1
1914-1920	100	17.8	34.9	52.7	47.3
1921-1930	100	44.0	50.8	94.8	5.2
1931-1940	100	83.5	13.9	97.4	2.6
1941-1949	100	54.3	45.7	100.0	0
1950-1959	100	52.1	39.4	91.5	8.5

Source: 1880-1949, Melville J. Ulmer, Capital in Transportation, Communications and Public Utilities, Princeton University Press, 1960, Table 46, p.150. 1950-1959, Office of Business Economics, U.S. Department of Commerce.



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3 In this table, total capital requirements
4 include all dispositions of funds which increase or
5 replace the firm's assets, particularly, expenditures
6 on road, other plant, and equipment. The sources of
7 such capital may be internal, that is, generated by
8 depreciation charges or by retained earnings after
9 fixed expenses and dividend payments; or the sources
10 may be external, that is, obtained through the sale of
11 equity securities, bonds, or the assumption of other
12 forms of debt. Table 6 shows that since 1921 the rail-
13 roads have satisfied nearly all their capital require-
14 ments from internally generated funds. In not one of
15 the last four decades did external sources provide
16 for as much as 10 percent of the total uses of
17 capital.
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Table No.7
Manitoba-Alberta
Memorandum No.3

MANITOBA AND ALBERTA
Rate of Internal Financing, Canadian Pacific Railway
Percentages of Total Capital Requirements Financed
by Depreciation Charges and Retained Net Earnings

Date	Total Capital Requirements	Depreciation Charges	Retained Earnings	Total	
				Internal Financing	External Financing
1884-1894	100	0	0	0	100.0
1895-1904	100	0.5	14.4	14.9	85.1
1905-1914	100	0.3	19.2	19.5	80.5
1915-1919	100	0.7	64.0	64.7	35.3
1920-1929	100	6.0	11.1	17.1	82.9
1930-1939	100	12.5	75.1	87.6	12.4
1940-1946	100	47.8	52.2	100.0	0
1947-1956	100	53.8	33.0	86.8	13.2
1957-1959	100	53.6	34.0	87.6	12.4

Source: 1884-1956 derived from a study of the Source and Application of Funds prepared and filed with the Board of Transport Commissioners by Riddell, Stead, Graham and Hutchison, Chartered Accountants. 1957-59 derived from a similar study prepared by Peat, Marwick, Mitchell & Co., Chartered Accountants.



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2 In Table 7, I present similar data for the
3 Canadian Pacific Railway and much the same picture
4 emerges. During the last 30 years internal sources
5 have provided for the great bulk of all capital
6 requirements, ranging from nearly 90 percent to 100
7 percent. Under such circumstances, the need for
8 "attracting capital," so emphasized in the CPR
9 memorandum, is minor, if it exists at all. Regulatory
10 policy can indeed eliminate it entirely and, as Table
11 7 demonstrates, has already almost done so.

12 During 1959 the Canadian Pacific Railway
13 expended 72.4 million dollars for additions to and
14 improvements of its rail properties (including
15 depreciation). Of this amount, a total of 56.4 million
16 dollars was financed by depreciation charges against
17 current income. The remainder -- 72.4 million dollars
18 minus 56.4 million dollars -- amounts to 16 million
19 dollars. If these 16 million dollars had been
20 available to the Canadian Pacific Railway, from
21 earnings after depreciation, fixed charges, and
22 dividends, the entirety of the 1959 investment could
23 have been financed internally. Actually, the firm
24 retained from rail earnings a total of just under
25 5 million dollars, as Table 3 shows.

26 The above calculation provides a useful first
27 approximation of the amount of earnings which may be
28 allowed for retention. The value of 16 million dollars
29 as a quantitative estimate, however, is limited by the
30 possibility that future capital requirements may be



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2 lower or higher than those of 1959. Although
3 requirements have been greater in some previous years,
4 the probability of any very substantial and enduring
5 rise in investment needs is limited by a number of
6 factors:

7 1. The probability of a need for any great
8 extension of rail services is small. Total miles of
9 road operated by the Canadian Pacific has been
10 approximately unchanged since 1933.

11 2. The competition of other forms of
12 transportation, at least for certain types of rail
13 services, has actually required a constraction of
14 some branches of the rail business.

15 3. The mere replacement of capital, by
16 purchases financed by depreciation, is itself a form
17 of expansion. For old capital is almost always
18 replaced by more efficient new capital units, as
19 reflected by the steady rise in average number of cars
20 per freight train, the rise in gross ton miles per
21 freight train hour, and other familiar indexes of
22 efficiency. That this is a generalized trend is
23 shown by the estimates given in Table 8. These figures
24 show the number of dollars of capital investment re-
25 quired to produce one dollar of output per year, for
26 the average of all railroads in the United States.
27 Thus, it required an investment of \$6.58 to produce
28 one dollar of annual output in 1900, but only \$2.66
29 in investment to produce the same output in 1950. The
30 estimates are in constant dollars -- that is, corrected



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2 for price changes. The trend depicted in the table
3 mirrors the growing efficiency of capital and there is
4 every evidence that the trend has continued.

5 Nevertheless, some provision should be made
6 for the possibility of a moderate rise in capital
7 requirements for desirable improvements. I therefore
8 estimate permissive earnings for retention at 17
9 million dollars.

10 MR. SINCLAIR: Again, Mr. Chairman, I object.

11 THE CHAIRMAN: We are not fixing any permissive
12 level of rates or any rate.

13 MR. FRAWLEY: That is quite right. That is
14 for the Board of Transport Commissioners.

15 MR. MAURO: That's right.

16 MR. SINCLAIR: Nor are you, in view of the
17 way my friends have leaped to the word "fixing", nor
18 are you recommending what should be a proper level.

19 MR. FRAWLEY: Of course, my friend is ---

20 THE CHAIRMAN: What we do in that regard is
21 for us, but we are not fixing the rate nor the
22 permissive level.

23 MR. MAURO: Yes, leave it up to the Board.

24 MR. SINCLAIR: I understood you to say ---

25 THE CHAIRMAN: And we are not picking a rate
26 base nor a rate of return. That is not involved at
27 all, as you said yourself.

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Table No. 8
Manitoba-Alberta
Memorandum No.3

MANITOBA AND ALBERTA
Capital Product Ratios, ALL U.S. Railroads
Investment required for One Dollar of
Annual Output in 1929 Dollars

<u>Date</u>	<u>Capital- Output Ratios</u>
1890	\$10.33
1900	6.58
1910	4.42
1920	3.55
1930	4.46
1940	3.11
1950	2.66

Source: Melville J. Ulmer, Capital in Transportation
Communications and Public Utilities,
Princeton University Press, 1960, pp. 538-
539 and 473.



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2 Part VI. A Note on the CPR Memorandum

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4 The preceding discussion permits us to
5 disclose the absurdity of the claims made in the CPR
6 memorandum on the cost of capital.

7 MR. SINCLAIR: It is for language such as
8 that I raise and draw to the attention of the
9 Commission the fact of the qualifications of the
10 witness.

11 THE CHAIRMAN: We will note your objection.

12 MR. FRAWLEY: The only person qualified is
13 Charles W. Smith; apparently, Mr. Sinclair, he is the
14 only one.

15 MR. SINCLAIR: And the Board of Transport
16 Commissioners.

17 MR. MAURO: You haven't called the Board,
18 just Mr. Smith.

19 MR. SINCLAIR: The Board speak for themselves.

20 MR. FRAWLEY: Q. All right, Dr. Ulmer, will
21 you please continue?

22 A. A very large part of the capital
23 requirements of the Canadian Pacific Railway was built
24 up through retained earnings, as we have seen. Yet
25 the CPR memorandum recommends that a market rate of
26 return be applied to the firm's total assets, as
27 though all financing had been accomplished and would
28 continue to be accomplished by the issue of new stocks
29 and bonds. The rate of return of 9.25-9.5 percent
30 applied in the CPR memorandum to the "ordinary stock
and retained earnings" portion of the company's rail



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2 assets was apparently derived from the average
3 earnings-price ratio on the securities of selected
4 railroads in September 1959, as shown in schedule 8
5 of that memorandum. But in 1959 the earnings-price
6 ratio of Canadian Pacific common was at approximately
7 8 percent, not far under the rate for other railroads.
8 If a return of 9.5 percent (after preference dividends)
9 were realized on the Canadian Pacific's entire equity
10 assets, including accumulated surplus or retained
11 earnings, as the CPR memorandum recommends, the
12 earnings per share on Canadian Pacific common would
13 rise to an astonishing 24.4 percent.

14 If the recommendations of the present report
15 are followed, and we summarize them below, the earnings
16 per share on Canadian Pacific Railway common stock would
17 rise from the present level of 8 percent to 11.7
18 percent, which is in line, historically, with the
19 average performance of railroads in their better
20 years.

21 Part VII Conclusion

22 I estimate permissive earnings for the
23 Canadian Pacific Railway as follows:

24 Fixed charges \$15,841,277
25 Preferred dividends 2,211,209
26 Common stock dividends 15,693,465
27 Additions and improvements for
28 rail property 17,000,000
29 Total permissive earnings . . . \$50,745,951
30 This total of permissive earnings amounts to



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3.5 percent of the aggregate capital employed in rail activities, including communications. In my judgment it is sufficient to meet all financial obligations of the Canadian Pacific Railway, to provide for fair earnings for its owners, and to keep its property in efficient condition.

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MR. SINCLAIR: Again, I object on the basis that the witness is not qualified.

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MR. FRAWLEY: Thank you, Dr. Ulmer. Will you now answer such counsel as will ask you questions.

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2 CROSS-EXAMINATION BY MR. CUMMING:

3 Q. Dr. Ulmer, I have only a very few matters
4 but before I start into them I notice that in the
5 personal data that Mr. Frawley filed on the third
6 page there are two or three books referred to, and one
7 is entitled "Capital in Transportation, Communications
8 and Public Utilities, its Formation and Financing."
9 Then it reads: "National Bureau of Economic Research".
10 I take it that the Bureau of Economic Research sponsored
11 that study?

12 A. It did, sir.

13 Q. Would you give the Commission some indi-
14 cation of the extent and scope of that study?

15 A. Yes, sir. This study was just one
16 component in a grand study undertaken by the Bureau
17 of Economic Research which is a non-profit institution
18 on capital requirements for the United States. I per-
19 sonally was assigned the task of appraising this
20 important segment of the economy, that is, transpor-
21 tation, communications and public utilities. In
22 this study I examined the trends in capital require-
23 ments for this segment of the American economy begin-
24 ning in 1870 and carrying it on through to 1950. I
25 also examined and studied with care the trends and
26 means by which these capital requirements were financed.
27 I spent some six or seven years in the basic research
28 underlying this work not counting the period later in
29 which I was involved in writing it.

30 Q. How long is this book?



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A. I think it somewhere around 600 pages.

Q. There is another publication, Trends and Cycles in Capital Formation by United States Railroads, 1870 to 1950. Was that also sponsored by the National Bureau of Economic Research, was that a study in the same field?

A. Yes, sir, and this concentrated on the cyclical fluctuations in the investment of the American railways.

Q. I notice at the top of page 2 under the heading of "Employment Record," that from 1946 to 1948 you were Chief, Financial Organization Section, Office of Business Economics, U. S. Department of Commerce. Would you give the Commission some idea of your duties in that office?

A. Yes, there were two important facets to my duties when I was in this position. One of them involved the study of investment by American industry and in connection with the study while I was there we developed a programme which is still sponsored by the United States Commerce Department, the programme through which they estimate each quarter of the year and at the end of each calendar year the probable investment in advance of American business. We studied prospects for investment as well as past investment for American industry. In addition we studied, once again, the way in which those investments were financed or what was the financial aspect as well as the real investment in the studies.



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THE CHAIRMAN: As well as projections?

THE WITNESS: Yes, sir, as well as projections.

MR. CUMMING: Q. Thank you, Dr. Ulmer. I would like now to turn to page 2 of the context of your memorandum under the heading "The Existing Cost of Equity Capital", and in the discussion in the second paragraph under that heading with reference to Table 3 you say:

"The grand total, or \$31,288,931, may be termed the cost of all the equity capital employed during the year."

I am interested in the sense in which you use the term "cost of equity capital" there?

A. Yes.

Q. Am I right in understanding that what you call "cost of equity capital" is the total of the pay out of dividends plus the retained earnings in that particular year?

A. Yes, sir. This grand total includes the amount of money that in an important sense of the item was paid for the use of this capital and was paid also to keep this capital in its proper use. Now, the sum that was paid was only sufficient to keep this money involved in the business, there was no withdrawal of substantial capital funds and we must consider that this amount that was paid out of capital at least met its cost in the sense of keeping this factor of production capital in operation.

Q. Well, then, does it follow from the way



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2 in which you arrive at this figure for the cost of
3 equity capital that if, for instance, the gross earnings
4 of the company had been, say, \$5 million less than
5 they actually were and these other expenses remained
6 the same, that is to say, \$5 million less in hand, so
7 that there would be either lower dividends or less to
8 be held as retained earnings, that the cost of equity
9 capital would be that much less under those circum-
10 stances?

11 A. It would have been that much less that
12 year, yes, and if it had not been so low that the
13 company were in such obvious difficulty that it could
14 not replace its capital and the capital was dwindling,
15 it would more or less be a payment which in that
16 year was less in the sense of the word, less within
17 the long run cost requirement. It was not true in
18 this year.

19 Q. Yes, I see that, but does it follow
20 from this that the earnings of a company are the measure
21 or define the cost of money which the company in fact
22 pays in any one fiscal year?

23 A. Well, let me call your attention to the
24 fact that at the end of this memorandum I do make an
25 estimate of what I consider to be the long run cost
26 of capital for this company at the present time.
27 In referring to this particular figure that you call
28 my attention to, as the cost of capital, I was not
29 here using the term in its long run standpoint as to
30 what was the cost of capital that year but at the end



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2 of that my objective is to achieve an estimate of the
3 long run cost of capital, the cost of capital that would
4 indeed satisfy the definitions that I have established
5 in this report which includes keeping the capital stock
6 of this firm intact and in good condition and also
7 satisfying that objective we refer to the one of maintaining
8 its financial integrity.

9 Q. That is to say, over the long run there
10 would be a level based on what you consider to be a proper
11 cost?

12 A. Yes, sir, but certainly not in the short
13 run and in any one year.

14 Q. Is it fair to say that the cost of
15 capital to the company is defined in the way I suggested?

16 A. Only in the short run in that this was
17 what was paid for the capital used that year and in that
18 sense it is the cost. It cannot be the long run cost
19 in the sense of the equilibrium cost for this firm.

20 Q. Does it follow from that that if one
21 accepts, for the purpose of this discussion in any event,
22 the Judgment of the Board of Transport Commissioners on
23 its finding as to permissive level of rail earnings, is
24 not the cost of money the permissive level of earnings
25 divided by the total rail investment?

26 A. Yes, sir.

27 Q. Now, I turn over to something that is a
28 statement on page 9, the second paragraph in your dis-
29 cussion of Table No. 7 where you have shown the rate of
30 internal financing over the years and you make this



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comment:

"Regulatory policy can indeed eliminate it---"

The "it" being the need for attracting capital:

"Regulatory policy can indeed eliminate it entirely and as Table 7 demonstrates, has already almost done so."

A. Yes, sir.

Q. Now, I take it that that can be done if the regulatory policy is such that there is permitted a level of retained earnings sufficient to give that depreciation to meet all their capital requirements from internal sources?

A. Yes, and assuming, as is true here, that it could have been the amount of earnings which enabled the company to pay its fixed charges, of course, and have dividends ---

Q. After having paid its fixed --- ?

A. Yes.

Q. But is not this postulated on the basis that the company, the regulated company must be able to realize the level of earnings apart from the level which may be the permissive level which may be fixed? It must be able to realize earnings of that level in order for this internal financing to be done entirely?

A. Yes, of course, it must realize its permissive earnings.

Q. And what is the impact on this when its revenues fall short?

A. Well, I think that any regulatory body



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2 establishes its regulation so that they will operate
3 over a period of years in the future rather than any
4 one of those years because there are always unforeseeable
5 things that happen, it reduced earnings below the
6 expected amount or raised them above that but proper
7 regulation would arrange things so that at least over
8 the years in the future the situation would average out
9 in accord with the Commission's expectations. Since
10 we have human limitations this will not always be done.

11 Q. I do notice from Table 7 that in the
12 postwar years there has been some change in the trend,
13 that is to say, from 1940 to 1946 financing was done
14 entirely through internal sources and that in the
15 latter decade and a bit more there has been some
16 reversion or some resort to external sources?

17 A. Yes, sir.

18 Q. Do you have any views as to the trend?

19 A. Well, there is one decade which I think
20 is the reasonably certain one, and that is that in the
21 postwar period we had an unusual policy in capital
22 requirements, that is, they were very substantially
23 greater than the average in the past, the long run average
24 in the past and possibly greater than the long run average
25 of the future.

26 Q. I suppose that was in part at least the
27 result of the unavailability of capital equipment during
28 the war years?

29 A. Yes.

30 Q. A need that had to be accelerated in the



1
2 postwar period then?

3 A. Coming as it did after a long period of
4 depression in which it was at a lower level too.

5 Q. And, of course, coming at the time when
6 the demand was up, in any event?

7 A. Yes, sir.

8 Q. Well, do you think that the 12 per
9 cent, the 12.4 per cent that appears in the 1957-59
10 period on Table No. 7 will turn down again in the next
11 ten to fifteen years?

12 A. I have the impression that they might,
13 not very substantially but moderately so.

14 Q. On page 10, a small point on another
15 matter, in paragraph No. 3 when you are discussing the
16 rate relationship of investment to output and making
17 the point that capital is now more efficient that it
18 was in 1900, why, I wonder, have you adjusted these
19 figures and expressed them in constant dollars?

20 A. Because the effort was made here to
21 discern what changes, if any, had occurred over this
22 period in the real efficiency of capital. Now, if
23 the picture were distorted by prices you could not tell
24 anything. For instance, if we look at the capital
25 stock of the United States railroads today, this capital
26 stock consists of capital units which were purchased at
27 many different periods of time, some of them dated back
28 fifty years or more under price levels which were very
29 different from what they are today. The process used
30 in this study was to put the prices paid, output and



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2 capital stock in accountable places.
3 Q. I was under the impression if it was a
4 simple question of determining comparative relationships
5 that if you had taken the capital situation as it existed
6 in 1900 and related that to output in 1900 all in 1900
7 dollars you would have the result of so many 1900 dollars
8 of investment related to so many 1900 dollars of output.
9 Similarly for the 1960 situation.

10 A. It would not quite be that way.

11 Q. Because of the historic buildup of the
12 capital?

13 A. The capital stock existing in 1900
14 had been purchased at many periods in the past at dif-
15 ferent prices.
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Q. I understand. I am going over onto page 11, the end of the first paragraph where you say, "If a return of 9.5 per cent (after preference dividends) were realized on the Canadian Pacific's entire equity assets, including accumulated surplus or retained earnings, as the C.P.R. memorandum recommends, the earnings per share on Canadian Pacific common would rise to an astonishing 24.4 per cent."

Dr. Ulmer, I am trying to understand this thesis that you make here and I have worked out what I might describe as a hypothetical case using round numbers, because I find them, if anything, a little simpler to deal with, and I want to put this to you and see if the example I have set out illustrates the point which you are making.

Supposing that we have a company which in the year 1900 has an original investment -- and perhaps you would like to write down these numbers as we go along: we have an original investment in 1900 of \$300 million raised, as to \$100 million, in 5 per cent bonds; as to \$100 million in deferred stock, and we will have a dividend on that of 5 per cent; and as to \$100 million in common stock. Now, suppose that company earns 10 per cent on its investment: it will then have \$30 million of which it will have to pay out \$5 million on the bonds, \$5 million on the preferred stock, and there is a balance of \$20 million, and perhaps in this we can divide that, paying out \$8½ million common stock -- dividends on the common stock -- and retaining



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2 \$11½ million as retained earnings. Let us carry the
3 operation of this company forward in 1960, and in 1960
4 we still have \$100 million in bonds, \$100 million in
5 5 per cent preferred stock, \$100 million in common
6 stock, but by this time there is now \$700 million
7 retained earnings built up over the years. So, the
8 total investment is now \$1 billion. If it earns
9 10 per cent on that investment there would be \$100
10 million available, the bonds would still get \$5 million,
11 the preferred stock would get \$5 million, but it is
12 now \$90 million represented by a common stock situation
13 of \$100 million which is apparently 90 per cent on the
14 original investment. Is that a fair illustration of
15 why you are saying that the railway claim of 9½ per
16 cent extended to its entire equity assets, including
17 accumulated surplus or retained earnings, is excessive?

18 A. I think so, yes, sir.

19 COMMISSIONER ANSCOMB: I wonder if I could
20 ask at this point, Mr. Cumming, this question: are you
21 assuming that company was living in dreamland and
22 never paid any income tax?

23 MR. CUMMING: These are nets after paying --
24 this is a hypothetical case, and I am merely trying to
25 get an illustration of a point Dr. Ulmer has.

26 Q. There is just one more question arising
27 out of this: this hypothetical case has carried on to
28 the point where there is \$700 million of the shareholders'
29 money built up over the years and ploughed back into
30 the company: is it your thesis that the shareholders



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2 who have ploughed back that money ought not to get a
3 return on it, or is it simply your position that as
4 a matter of fact they do not demand it, that the
5 company is not paying it, and that it is therefore not
6 a cost to the company?

7 A. I think both of these points of view have
8 something of the essence of the dramatic. We have a
9 situation, first of all, in which we would have to
10 hesitate to say which of these particular stockholders
11 had paid back any of the accumulated surplus in this
12 company. This has been done over the historical past,
13 and the people who hold the stock today are holding it
14 as alternatives to putting their money in any of a
15 number of other different investments. They are
16 getting six per cent and they consider this to be,
17 apparently, since they hold the stock, a satisfactory
18 return. If suddenly you were to change the entire
19 basis on which this company has been since it was
20 organized and suddenly suggest that the six per cent,
21 or as the C.P.R. suggests, a 9.5 per cent return should
22 be allowed on the entire capital stock of this company,
23 it would grant these stockholders something that no one
24 of them would ever suggest might be a reality, and that
25 is a return three or four or five times the regularly
26 realized return in the market today.

27 Q. Just so that I understand your point,
28 in making this submission in the context of the cost
29 study of grain, apart from the question as to whether or
30 not the shareholders do demand it, the fact is that they



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are not demanding it?

A. Correct.

Q. And doesn't that lead to the conclusion if it is not being demanded it is not being paid, and if it is not being paid it is therefore not a cost?

A. Yes, I think that is true. I also think there is a question of equity or social morality here. It would be unfair, certainly, to brand the present stockholders, the present people who happen to own this security, a return of 24 or 25 per cent as suggested here. One would consider that any particular stockholder need not have done anything to warrant so grand a return. So, I think it is something more than the mere fact there doesn't seem to be any need to pay this money. I agree there is no need. Also, there is no requirement in moral obligation -- certainly not a legal obligation.

Q. But if it is not being paid then you say it certainly is not a cost; that is your basic thesis?

A. Yes, sir.

MR. CUMMING: That is all I have, thank you.

---The witness stands down.



1
2 GEORGE H. BORTS, called

3
4 DIRECT EXAMINATION BY MR. MAURO:

5 Q. Dr. Borts, I will read out the informa-
6 tion that I have concerning your background and when
7 I have completed it I would ask you to signify whether
8 it is correct:

9 Your name is George H. Borts. You were born
10 in New York and educated in the New York schools and
11 received your Bachelor of Arts Degree from Columbia
12 University in 1947; your Master of Arts Degree at
13 the University of Chicago in 1949; and your Doctor of
14 Philosophy Degree from the University of Chicago in 1953.

15 Your experience to date: the Illinois
16 Institute of Technology from 1948 to 1949. Cowles
17 Commission for Research in Economics, University of
18 Chicago, 1949 to 1950. Brown University, Providence,
19 R. I., Assistant Professor, 1950 to 1954. National
20 Bureau of Economic Research; Research Associate,
21 1954 to 1955. Brown University: Associate Professor,
22 1955 to 1960; Full Professor as of July 1, 1960.

23 You wrote your doctoral thesis in 1953 on
24 Cost and Production Relations in the Railway Industry.

25 You have also written articles touching upon
26 Railway Economics which have appeared in various
27 publications.

28 You have also had reviews of books on Railway
29 Economics for the Journal of Political Economy, and the
30 American Economic Review. Some of these items are:



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Production Relations in the Railway Industry:

Increasing Returns in the Railway Industry: The Esti-
mation of Rail Cost Functions.

You have also appeared in other publications;
is that correct?

A. That is correct.

Q. The memorandum that we will be dealing with
is the memorandum marked 1, The Cost to the Canadian
Pacific Railway of moving Grain to Export Positions in
Western Canada, and Memorandum No. 1 on behalf of the
Governments of Alberta and Manitoba and an addendum
thereto. That memorandum was prepared by you, or
at your direction?

A. That is right.

MR. MAURO: That is as far as we will go
tonight, Mr. Chairman.

---Adjournment.

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